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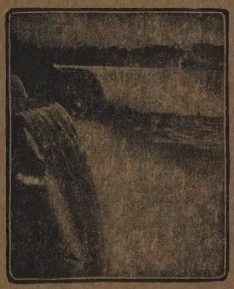
CHARTER

OF THE

CITY OF NIAGARA FALLS

STATE OF NEW YORK

CHAPTER 530 OF THE LAWS OF 1916
AS AMENDED TO JANUARY 1, 1932



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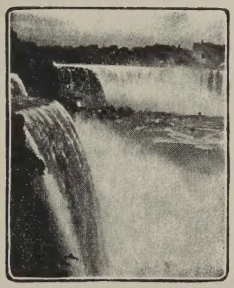

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LAWS OF NEW YORK—By Authority

Chap. 530

AN ACT to provide a charter for the city of Niagara Falls.

Became a law May 12, 1916, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the City.

The People of the State of New York, represented in Senate and Assembly, do enact as follows

THE CHARTER OF THE CITY OF NIAGARA FALLS.

Article I. Boundaries; civil divisions; powers; rights and obligations of the city (§ § 1—5).
II. City officers; elections; appointments; terms of office; compensation; eligibility; removal and vacancies (§ § 6—35).
III. City officers. General powers and duties (§ § 36—55).
IV. The city council (§ § 56—81).
V. Department of finance; city auditor; city treasurer; bonds, et cetera; bids; tax budget (§ § 82—117).
VI. Department of public service; operation water works plant; streets; sewers (§ § 118—133).
VII. Bureau of police; bureau of fire; bureau of health (§ § 134—183).
VIII. Taxation and assessment (§ § 184—239).
IX. Department of judiciary; city court; justice court; police court (§ § 240-267).
X. Department of law (§ § 274—280).
XI. Department of public instruction (§ § 281—294).
XII. Department of industrial affairs; director of industrial affairs; advisory board of grade crossing commissioners; advisory board of harbor commissioners (§ § 295—313).

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XIII. Bureau of parks; advisory board of park commissioners (§ § 314—318).
XIV. Miscellaneous (§ § 320—331).
XV. Zoning (§ § 332—338).
XVI. Provisions Relating to the annexation of La Salle, N. Y. (§ § 400—410).

ARTICLE I.

BOUNDARIES; CIVIL DIVISIONS; POWERS; RIGHTS AND OBLIGATIONS OF THE CITY.

Section 1. Short titles.
2. Boundaries.
3. Ward boundaries.
4. Corporate name; powers.
5. Municipal and fiscal year; difinitions.

Section 1. This act is a public act and shall be known and cited by the short title of "Niagara Falls Charter."

§ 2. All that district in the county of Niagara, state of New York, comprised within the following boundaries, to wit: Commencing at a point in the center line of the east channel of the Niagara river where the center line of said river is intersected by the east line of the town of Niagara, produced southerly, to intersect said center line of said east channel of said Niagara river; thence running northerly in a straight line along the easterly line of the said town of Niagara, produced southerly as aforesaid and along the easterly line of said town of Niagara to its intersection with the Mile Line, so-called, forming the northerly boundary of the Mile Reserve, so called; thence westerly along the northerly line of the Mile Reserve or Mile Line, so-called, to its intersection with the easterly line of the Niagara Falls boulevard or the Tuscarora road, so-called; thence southerly along the easterly line of said Niagara Falls boulevard or Tuscarora road, so-called, to a point where the southerly line of the Mile Line road or the Niagara Falls boulevard, so-called, produced easterly intersects the easterly line of said Tuscarora road, so-called; thence westerly along the southerly line of the Niagara Falls boulevard or the Mile Line road, so-called, to its intersection with the east line of farm lot number forty-nine of the Mile Reserve, so called; thence running northerly

along the easterly line of said farm lot number forty-nine produced notherly to its point of intersection with the northerly line of Lockport road, so-called; thence southwesterly along said northerly line of said Lockport road, so-called, to its intersection with the easterly line of Sugar street, so-called; thence northwesterly along said easterly line of said Sugar street, so-called, to its point of intersection with the northerly boundary line of the town of Niagara; thence westerly along said northerly boundary line of said town of Niagara and the said line produced westerly to the center line of the Niagara river; thence up stream following the center line or thread of the said Niagara river forming the international boundary line between the Dominion of Canada and the United States of America to its intersection with the center line of that part of the Niagara river lying between Grand Island and the main land known as the east channel of the Niagara river; thence in an easterly direction and up stream along the center line of the so-called east channel of the Niagara river to the place of beginning, shall be known as the City of Niagara Falls, New York. (As amended by Chapter 174 Laws N. Y. 1928).

§ 3. The city shall be divided into fifteen wards bounded respectively as follows:

1. The first ward shall include all that part of said city lying within the following boundaries, namely: Beginning at the point of intersection of the center line of the Niagara river forming the international boundary line with the center line of Niagara street produced westerly; running thence easterly along said center line of Niagara street so produced and the center line of Niagara street to the center line of Third street; running thence southerly along the center line of Third street and said center line of Third street produced to the center line of the Niagara river forming the international boundary line; running thence notherly along the center line of said Niagara river forming the international boundary line down stream to the place of beginning. (As amended by Chapter 530, Laws N. Y. 1927. Effective March 31, 1927).

2. The second ward shall include all that part of said city lying within the following boundaries, namely: Beginning at the intersection of the center line of Niagara street with the center line of Third street; running thence easterly along the

center line of Niagara street to the center line of the right of way of the Erie Railroad Company; thence southerly along the said center line of the right of way of the Erie Railroad Company to the center line of Eighth street; thence southerly along the center line of Eighth street to the northerly line of the right of way of the lands of the New York Central and Hudson River Railroad Company; thence westerly along the northerly line of the right of way of the New York Central and Hudson River Railroad Company to the center of the hydraulic canal; thence southeasterly along the center line of the hydraulic canal to the center line of the Niagara river; forming the international boundary line; thence down stream along the center line of the Niagara river forming the international boundary line to its intersection with the center line of Third street produced southerly; thence northerly along the center line of Third street produced southerly and along the center line of Third street to the place of beginning. (As amended by Chapter 530, Laws N. Y. 1927. Effective March 31, 1927).

3. The third ward shall include all that part of said city lying within the following boundaries, namely: Beginning at the center line of the Niagara river forming the international boundary line at the point of intersection with the center line of the hydraulic canal, produced southerly; thence easterly along the center line of the Niagara river forming the international boundary line to the center line of Thirteenth street, produced southerly; thence northerly along the center line of Thirteenth street so produced, and along the center line of Thirteenth street, to the center line of Falls street; thence easterly along the center line of Falls street to the center line of Portage road; thence northwesterly along the center line of Portage road to the point of intersection thereof with the most northerly center line of Niagara street; thence westerly along the center line of Niagara street to the center line of the right of way of the Erie Railroad Company; thence southerly along the center line of the right of way of the Erie Railroad Company to the center line of Eighth street; thence southerly along the center line of Eighth street to the northerly line of the right of way of the lands of the New York Central and Hudson River Railroad Company; thence westerly along the

northerly line of said right of way of the New York Central and Hudson River Railroad Company to the center line of the hydraulic canal; thence in a southerly direction and along the center line of the hydraulic canal and said center line produced southerly, to the place of beginning. (As amended by Chapter 174, Laws N. Y. 1927. Effective March 31, 1927).

4. The fourth ward shall include all that part of said city lying within the following boundaries, namely: Beginning at the center of the Niagara river, forming the international boundary line where the same is intersected by the center line of Thirteenth street, produced southerly; thence northerly along the center line of Thirteenth street, so produced, and along the center line of Thirteenth street to the intersection of the center line of Falls street; thence easterly along the center line of Falls street to the center line of Portage road; thence northwesterly along the center line of Portage road to its intersection with the center line of Niagara street as the same extends east of said Portage road; thence easterly along the center line of Niagara street to the center line of Gill creek; thence southerly along the center line of Gill creek and the said center line produced southerly to the center line of the Niagara river forming the international boundary line; thence westerly along the said center line of the Niagara river forming the international boundary line to the place of beginning. (As amended by Chapter 174, Laws N. Y. 1928. Effective February 29, 1928).

5. The fifth ward shall include all that part of said city lying within the following boundaries, namely: Beginning at the center line of Packard road at the point of intersection with the center line of Pine avenue; thence westerly along the center line of Pine avenue to the center line of the Erie Railroad right of way; thence southerly along the center line of the Erie Railroad right of way to the center line of Niagara street; thence easterly along the center line of Niagara street to the center line of Portage road; thence southeasterly along the center line of Portage road to the center line of Niagara street; thence easterly along the center line of Niagara street to the center line of Packard road; thence northeasterly along the center line of Packard road to the place of beginning. (As amended by Chapter 530, Laws N. Y. 1927. Effective March 31, 1927).

6. The sixth ward shall include all that part of said city lying within the following boundaries, namely: Beginning at the intersection of the center line of Fourth street with the center line of Niagara street; thence northerly along the center line of Fourth street to the center line of Main street; then northeasterly along the center line of Main street to the center line of Cedar avenue; then easterly along the center line of Cedar avenue to the center line of the right of way of the Erie Railroad Company; thence southerly along the center line of the right of way of the Erie Railroad Company to the center line of Niagara street; thence westerly along the center line of Niagara street to the place of beginning. (As amended by Chapter 530, Laws N. Y. 1927. Effective March 31, 1927).

7. The seventh ward shall include all that part of said city lying within the following boundaries, namely: Beginning at a point in the center line of the Niagara river forming the international boundary where the center line of Niagara street produced westerly would intersect the same; thence running easterly along the center line of Niagara street produced and along the center line of Niagara street to the center line of Fourth street; thence northerly along the center line of Fourth street to the center line of Main street; thence northeasterly along the center line of Main street to the center line of Cedar avenue; thence westerly along the center line of Cedar avenue and Cedar avenue produced to the center line of the Niagara river forming the international boundary line; thence in a southerly direction along the center line of the Niagara river forming the international boundary line to the place of beginning. (As amended by Chapter 530, Laws N. Y. 1927. Effective March 31, 1927).

8. The eighth ward shall include all that part of said city lying within the following boundaries, namely: Beginning at a point in the center line of the Niagara river forming the international boundary line where the same is intersected by the center line of Cedar avenue produced westerly; thence easterly along the center line of Cedar avenue produced westerly and the center line of Cedar avenue to the center line of the Erie railroad right of way; then north along the center line of the Erie railroad right of way to the center line of

Michigan avenue; thence westerly along the center line of Michigan avenue to the center line of Main street; thence southerly along the center line of Main Street to the point of intersection with the center line of Linwood avenue; then westerly along the center line of Linwood avenue and Linwood avenue produced westerly to the center line of Niagara river forming the international boundary line; thence southerly along the center line of Niagara river, forming the international boundary line to the place of beginning. (As amended by Chapter 530, Laws N. Y. 1927. Effective March 31, 1927).

9. The ninth ward shall include all that part of said city lying within the following boundaries, namely: Beginning at the center line of the Erie railroad right of way at the point of intersection with the center line of Willow avenue; thence southerly along the center line of the Erie railroad right of way to the center line of Pine avenue; thence easterly along the center line of Pine avenue to the east city line; thence northerly along the east city line to the center line of Willow avenue; thence westerly along the center line of Willow avenue and the center line of Willow avenue produced westerly to the center line of New road; thence northerly along the center line of New road to the center line of Willow avenue produced easterly; thence westerly along the center line of Willow avenue produced easterly and the center line of Willow avenue to the place of beginning. (As amended by Chapter 530, Laws N. Y. 1927. Effective March 31, 1927).

10. The tenth ward shall include all that part of said city lying within the following boundaries, namely: Beginning at a point in the center line of the Erie railroad right of way where the same is intersected by the center line of Willow avenue produced westerly; thence easterly along the center line of Willow avenue produced westerly and the center line of Willow avenue and the center line of Willow avenue produced easterly to the center line of New road; thence southerly along the center line of New road to the center line of Willow avenue produced westerly; thence easterly along the center line of Willow avenue produced westerly and the center line of Willow avenue to the east city line; thence northerly along the east city line to the center line of Porter

road produced easterly; thence westerly along the center line of Porter road produced easterly and the center line of Porter road to the center line of Sugar street; thence southerly along the center line of Sugar street to the center line of Cleveland avenue; thence westerly along the center line of Cleveland avenue to the center line of the Erie railroad right of way; thence southerly along the center line of the Erie railroad right of way to the place of beginning. (As amended by Chapter 530, Laws N. Y. 1927. Effective March 31, 1927).

11. The eleventh ward shall include all that part of said city lying within the following boundaries, namely: Beginning at a point in the center line of the Niagara river forming the international boundary line where the same is intersected by the center line of Linwood avenue produced westerly; thence easterly along said center line of Linwood avenue so produced westerly and the center line of Linwood avenue to the intersection of the center line of Main street; thence northerly along the center line of Main street to the center line of Michigan avenue; then easterly along the center line of Michigan avenue to the center line of the right of way of the Erie Railroad Company; thence northerly along the center line of the right of way of the Erie Railroad Company to the center line of North avenue; thence westerly along the center line of North avenue to the center line of Main street; thence northerly along the center line of Main street to the center line of Bath avenue; thence westerly along the center line of Bath aveenue and the center line of Bath avenue produced westerly to the center line of the Niagara river forming the international boundary line; thence southerly along the center line of the Niagara river forming the international boundary line to the place of beginning. (As amended by Chapter 530, Laws N. Y. 1927. Effective March 31, 1927).

12. The twelfth ward shall include all that part of said city lying within the following boundaries, namely: Beginning at the point of intersection of the center line of the Niagara river forming the international boundary line with the center line of Bath avenue produced westerly; running thence along said center line of Bath avenue so produced westerly and the center line of Bath avenue to the center line

of Main street; thence southerly along the center line of Main street to the center line of North avenue; thence easterly along the center line of North avenue to the center line of the right of way of the Erie Railroad Company; then south-easterly along the center line of the right of way of the Erie Railroad Company to the center line of Ontario avenue; thence easterly along the center line of Ontario avenue to the center line of Thirteenth street; thence northerly along the center line of Thirteenth street produced across the lands of the New York Central and Hudson River Railroad Company to the center line of Calumet avenue; thence easterly along the center line of Calumet avenue and the center line of Elm court to the center line of Lockport road; thence northeasterly along the center line of Lockport road to the easterly line of Sugar street; thence north-westerly along the easterly line of Sugar street to the center line of Garfield avenue, or the northerly city line; thence westerly along the northerly line of said city to the center of the Niagara river forming the international boundary line; thence in a southerly direction along the center line of the Niagara river forming the international boundary line to the place of beginning. (As amended by Chapter 530, Laws N. Y. 1927. Effective March 31, 1927).

13. The thirteenth ward shall include all that part of said city lying within the following boundaries, namely: Beginning at a point in the center line of the Erie Railroad Company's right of way, where the same is intersected by the center line of Cleveland avenue; thence easterly along the center line of Cleveland avenue to the center line of Sugar street; thence northerly along the center line of Sugar street to the center line of Porter road; thence easterly along the center line of Porter road and the center line of Porter road produced easterly to the easterly city line; thence northerly along the easterly city line to the northerly line of Lockport road; thence southwesterly along the northerly line of Lock port road to the easterly line of Sugar street; thence south-westerly along the center line of Lockport street produced and along the center line of Lockport street to the center line of Elm court; thence westerly along the center line of Calumet avenue and the center line of Elm court to the

center line of Thirteenth street; thence southerly along the center line of Thirteenth street and Thirteenth street produced, across the lands of the New York Central and Hudson River Railroad Company, to the center line of Ontario avenue; thence westerly along the center line of Ontario avenue to the center line of the right of way of the Erie Railroad Company; thence southerly along the center line of the right of way of the Erie Railroad Company to the place of beginning. (As amended by Chapter 530, Laws N. Y. 1927. Effective March 31, 1927).

14. The fourteenth ward shall include all that part of said city lying within the following boundaries, namely: Beginning at a point in the center line of the Niagara river forming the international boundary line where the same is intersected by the center line of Gill creek produced southerly; running thence northerly along the said center line so produced southerly and the said center line of said creek to the center line of Niagara street; thence easterly along the center line of Niagara street and the said center line extended easterly to the center line of Packard road; thence northeasterly along the center line of Packard road to the center line of Pine avenue; thence easterly along the center line of Pine avenue to the easterly line of lot forty-nine of the Mile Reserve, so-called; thence southerly along the easterly line of lot forty-nine of the Mile Reserve, so-called, to its intersection with the south line of Pine avenue or the Mile Line road, so-called; thence easterly along the south line of Pine avenue or the Mile Line road, so-called, to the center line of Belden avenue; thence southerly along the center line of Belden avenue and the center line of Belden avenue produced southerly to the center line of Little Niagara river, so-called; thence running westerly along the center line of Little Niagara river, so-called, to a point where a line drawn at right angles to said last line will clear the westerly end of Cayuga Island; thence running southerly along said right angle line to its intersection with the center line of the east channel of the Niagara river; thence running westerly along the center line of said east channel of the Niagara river to its intersection with the center line of the Niagara river forming the international boundary line; thence westerly along the

said international boundary line to the place of beginning. (As amended by Chapter 174, Laws N. Y. 1928. Effective February 29, 1928).

15. The fifteenth ward shall include all that part of said city lying within the following boundaries, namely: Beginning at a point in the south line of Pine avenue or the Mile Line road, so-called, where the same is intersected by the center line of Belden avenue; thence running southerly along the center line of Belden avenue and said center line produced southerly to a point in the center of the Little Niagara river, so-called; running thence westerly along the center line of the Little Niagara river, so-called, to a point where a line drawn at right angles southerly to said last line will clear the westerly end of Cayuga Island; running thence southerly along the said last right angle line to its intersection with the center of that part of the Niagara river lying between Grand Island and the main land known as the east channel of the Niagara river; running thence in an easterly direction and up stream along the center line of the so-called east channel of the Niagara river to its intersection with the east line of the town of Niagara produced southerly; thence running northerly in a straight line along the easterly line of said town of Niagara produced southerly as aforesaid and along the easterly line of said town of Niagara to its intersection with the Mile Line, so-called, forming the northerly boundary of the Mile Reserve, so-called; thence westerly along the northerly line of the Mile Reservation, or Mile Line, so-called, to its intersection with the easterly line of the Niagara Falls boulevard or the Tuscarora road, so-called; thence southerly along the easterly line of said Niagara Falls boulevard or Tuscarora road, so-called, to a point where the southerly line of the Mile Line road or the Niagara Falls boulevard, so-called, produced easterly intersects the easterly line of said Tuscarora road, so-called; thence westerly along the southerly line of the Niagara Falls boulevard produced easterly and the Niagara Falls boulevard or the Mile Line road, so-called, to its intersection with the center line of Belden avenue, or place of beginning. (As amended by Chapter 174, Laws N. Y. 1928. Effective February 29, 1928).

§ 4. **General powers.** The citizens of the state of New

York who may from time to time reside in said city shall be a municipal corporation in perpetuity, under the name of the city of Niagara Falls; and the same shall by that name be a body politic and incorporated in fact and in law, with power to contract and to be contracted with, to sue and to be sued, to have a common seal, and to have perpetual succession, with all the rights, properties, interests, claims, demands, grants, powers, privileges and jurisdiction now held by said city of Niagara Falls, except so far as modified by the provisions of this act; and shall have power to take and hold real and personal property by gift, grant, purchase, bequest, devise, and by the exercise of the right of eminent domain, and to lease or to sell and convey the same for any city purpose, and to take and hold real and personal property in trust for any purpose of education, art, health, charity or amusement, for parks, gardens, burial of the dead, the erection of statues, monuments, public buildings, or other public uses, upon such terms as may be prescribed by the grantor or donor and accepted by said corporation. Said corporation shall have power to construct, maintain, control, renew and extend sewers, pavements and other public improvements for the use of said city and its inhabitants, and to do any act or thing necessary to carry into effect the powers granted to it. Said corporation shall have power to take more land and property than is needed for the actual construction in the laying out, widening and relocating of Main street in said city between Pierce and Chasm avenues provided, however, that the additional land and property so authorized to be taken shall be no more than sufficient to form suitable building sites abutting on such street. After so much of the land and property has been appropriated for the widening of such street as is needed therefor, said corporation is empowered to sell or lease the remainder thereof.

("As Amended Laws N. Y. 1923, Chapter 170—Effective April 9, 1923").

§ 5. The municipal and the fiscal year of said city shall each begin on the first day of January in each year. The term resolution as used in this act, includes all orders, rules, motions, resolutions and by-laws, other than ordinances; the term vacancy as used in this act, shall be construed as in sec-

tion thirty of the public officers law. The word his as used in this act, shall, in all proper cases, be held to include and be coextensive with the word her, it and their; the word person shall be held to include and to be coextensive with the words persons, company, joint stock association and corporation; the word street shall be held to include and be coextensive with roads, avenues, highways, alleys and squares; the word work shall be held to include and be coextensive with improvements and repairs; the word materials shall be held to include and be co-extensive with supplies, stationery, books, furniture and repairs to furniture; the word tax shall in all proper cases be held to include and be coextensive with water rents or rates, assessments or reassessments for local improvements, and the singular noun shall be held to include and be coextensive with the plural noun.

ARTICLE II.

CITY OFFICERS; ELECTIONS; APPOINTMENTS; TERMS OF OFFICE; COMPENSATION; ELIGIBILITY; REMOVAL AND VACANCIES.

Section 6. Elective officers; terms and compensation.
7. Appointive officers; terms and compensation.
8. City officers.
9. Eligibility of city officers.
10. Additional officers and employees.
11. Vacancy in office.
12. Vacancy; when filled.
13. Qualification of city judge.
14. Qualification of city engineer.
15. Qualification of city electrician.
16. When officers to qualify.
17. Commissions.
18. Expiration of term.
19. Resignations.
20. Removal of appointive officers.
21. Temporary appointment.
22. Removal of elective officers.
23. Delivery of property to successor.
24. When salaries to be paid.
25. Civil service law.
26. City Elections.

27. City clerk to publish notice.
28. Qualification of voters.
29. Inspectors to furnish certificate of canvass.
30. Council to canvass returns.
31. City clerk to enter result of canvass.
32. Tax elections; notice.
33. Council to provide polling places, et cetera.
34. Inspectors at tax election; conduct of election.
35. Qualification of voters; tax election.

§ 6. **Elective officers; terms and compensation.** There shall be elected under this act, at the times and for the terms of office herein stated, the following officers, whose terms of office shall begin on the first day of January next after their election; and where their salary and compensation are specified herein said officers shall receive for their services as such, the compensation and salaries hereinafter stated, and no other.

1. A mayor for a term of four years at the city election in November, nineteen hundred and nineteen, and every fourth year thereafter. He shall receive a salary of four thousand dollars per year, from February first, nineteen hundred and twenty eight.

2. Two councilmen for a term of four years at the city election in November, nineteen hundred and seventeen, to succeed the two councilmen elected for a term of two years at the city election held in November, nineteen hundred and fifteen, and two councilmen for a term of four years every second year thereafter. The councilmen elected as herein provided, shall each receive a salary of three thousand dollars per year, from February first, nineteen hundred and twenty-eight.

3. Until a mayor and councilmen shall be elected, as provided in subdivisions one and two, last above, the mayor and the four councilmen elected at the city election held in November, nineteen hundred and fifteen, shall be deemed respectively, the mayor and councilmen composing the council of the city of Niagara Falls during the terms for which they were respectively elected. All and singular acts and proceedings and the appointments of said mayor and councilmen, acting as such council of the city of Niagara Falls, and

of the city manager, performed, taken and made on and after January first, nineteen hundred and sixteen, are hereby in all things legalized, ratified and confirmed.

4. A supervisor from each ward of the city, for a term of two years, at the city election in November, nineteen hundred and eleven, and every second year thereafter. Supervisors shall receive the compensation allowed by law, in the same manner as supervisors of towns.

5. A city judge for a term of four years, at the city election in November, nineteen hundred and eleven, and every fourth year thereafter.

6. A police justice for the term of four years at the city election in November, nineteen hundred and eleven, and every fourth year thereafter.

7. A justice of the peace for the term of four years at the city election in November, nineteen hundred and eleven, and every fourth year thereafter. He shall receive as compensation the same fees as are allowed by law to the justices of the peace of towns.

The term of office of each, the city judge, the police justice and the justice of the peace of said city, heretofore elected and now in office, shall expire on December thirty-first, nineteen hundred and nineteen.

(As amended by Local Law No. 2, 1928, January 30, 1928.")

§ 7. **Appointive officers; how appointed; term and compensation.** There shall be appointed by the mayor under this act.

1. Nine members of the board of education for the term of three years each; three of whom shall be appointed each year; they shall receive no salary; three members of the board of library trustees, one of whom shall be appointed for a term ending December thirty-first, nineteen hundred and seventeen, one of whom shall be appointed for a term ending December thirty-first, nineteen hundred and eighteen, one of whom shall be appointed for a term ending December thirty-first, nineteen hundred and nineteen, and their successors shall be appointed for a term of three years each. They shall receive no salary.

2. There shall be appointed by the city council a city manager who shall hold office during the pleasure of the council; he shall receive such compensation as shall be fixed by the council.

3. There shall be appointed by the city council a city clerk who shall hold office during the pleasure of the council; he shall receive such compensation as shall be fixed by the council.

4. There shall be appointed by the city council subject to the provisions of the civil service law, three persons as municipal civil service commissioners to serve for two years, four years and six years, respectively. Each alternate year thereafter there shall be appointed one person, as the successor of the commissioner whose term expires, to serve for six years. Any vacancy shall be filled for the unexpired term in the same manner as the original appointment. Not more than two members of the commission shall be adherents of the same political party, and no member shall hold any other public office to which a salary is attached. A commissioner may be removed during his term of office by the unanimous vote of the council, and upon stating in writing the reasons for removal, and after allowing him opportunity of making an explanation.

The commissioners shall receive each an annual salary to be fixed and determined by the city council. The mayor shall detail or appoint a clerk, who may be one of the commissioners, who shall act as secretary of the municipal commission and whose salary shall be fixed by the city council. The appointment of said clerk and secretary shall be made by a written appointment and filed by the mayor in the office of the clerk of the city of Niagara Falls.

("As amended by Niagara Falls Local Law No. 1, 1928—Effective January 3, 1928.")

5. There shall be appointed by the city council commissioners of deeds for the terms and compensation provided by law.

5-a. There shall be appointed by the city council an assessor who shall hold office during the pleasure of the council; he shall receive such compensation as shall be fixed by the council.

5-b. There shall be appointed by the council at such times as may be determined by the council by resolution, a city auditor who shall hold office during the pleasure of the council and shall receive such compensation as shall be fixed by the council.

5-c. There shall be appointed by the city council five members of the advisory board of zoning commissioners who shall serve without compensation. The person first appointed shall be appointed for a term ending December thirty-first, nineteen hundred and twenty; the second for a term ending December thirty-first, nineteen hundred and twenty-one; the third for a term ending December thirty-first, nineteen hundred and twenty-two; the fourth for a term ending December thirty-first, nineteen hundred and twenty-three; the fifth for a term ending December thirty-first, nineteen hundred and twenty-four. Their successors shall be appointed for a term of five years each.

("As amended Laws N. Y. 1920, Chapter 633—Effective May 10, 1920.")

6. There shall be appointed by the city manager under this act the following officers, who shall receive for their services as such the compensation and salaries, if any, fixed by the city council, namely:

A corporation counsel; a deputy corporation counsel; a city treasurer; a deputy city treasurer; a deputy city clerk; a city engineer; a deputy city engineer; a superintendent of public service; two deputy superintendents of public service; a city electrician; a sealer of weights and measures; a health officer who shall be a physician; a commissioner of charities; a director of industrial affairs, whenever such appointment, of a director of industrial affairs shall be directed by resolution of the City Council and such appointment shall continue to be filled until directed by resolution of said city council to be discontinued; a superintendent of police; a chief engineer in the bureau of fire; a building commissioner.

("As Superseded & amended by Local Law No. 5, 1926")

7. The city manager shall also appoint five members to each of the following boards, who shall serve without compensation, and who shall serve for a term of two years each, except that the two members of each board first appointed

shall serve for one year, but their successors shall be appointed for the term of two years, to wit:

Advisory board of grade crossing commissioners; advisory board of harbor commissioners; advisory board of park commissioners.

He shall also appoint three members of the board of examiners of stationary engineers for the term of three years each; one to be appointed each year.

("As Amended by Laws of N. Y. 1920, Chapter 633").

§ 8. The foregoing officers provided for in the two last sections, excepting supervisors and commissioners of deeds, shall constitute and be the officers of said city of Niagara Falls.

§ 9. No person shall be elected or appointed to any of the foregoing city offices, unless he be at the time a resident of said city; nor to any ward or district office unless he shall have been at the time of said election or appointment a resident of such ward or district respectively, for five months immediately preceding such election or appointment. And when any city officer shall cease to be a resident of said city, or when any ward or district officer shall cease to be a resident of the ward or district for which he was elected or appointed, his office shall thereby become vacant.

§ 10. In addition to the officers above provided for, the city manager shall have the power to appoint, with the approval of the council, such additional officers, deputies, assistants and employees in the various departments and bureaus of the city as may be necessary for the proper conduct of the city's business. The salaries or compensations of such appointees shall be fixed by the city manager subject to the approval of the city council.

§ 11. If a vacancy exists or occurs in the office of mayor or councilman, or other elective office, the council shall appoint a qualified person to fill such vacancy until the first day of January following the next general city election, at which a successor shall be elected for the full unexpired term. If a vacancy exists or occurs in any other office, the vacancy shall be filled by the same authority and in the same manner as provided for the original appointment.

§ 12. All vacancies in office shall be filled within ten days after the occurrence of such vacancies.

§ 13. No one shall be eligible to the office of city judge of said city unless he shall have been duly admitted to practice as an attorney at law in the supreme court of the state of New York, for at least three years. No one shall be eligible to the office of police justice, unless he shall have been duly admitted to practice as an attorney at law in the supreme court of the state of New York for at least five years.

("As amended Laws N. Y. 1920, Chapter 632—Effective May 10, 1920").

§ 14. No one shall be eligible to the office of city engineer of said city unless he shall have been a civil engineer of at least five years' practical experience in his profession.

§ 15. No one shall be eligible to the office of city electrician unless he shall be an electrical engineer or shall have had five years' practical experience in electrical construction.

§ 16. All city officers elected as in this act provided shall qualify on or before the first day of January next following their election, and shall enter on the duties of their respective offices on said date. All city officers appointed as in this act provided, shall enter upon the duties of their respective offices within ten days next following their appointment.

§ 17. A commission under the seal of the city, signed by the mayor and attested by the city clerk, designating the office, and the appointee, shall be issued to every person appointed to office in said city.

§ 18. Any term of office herein specified as continuing for one year, shall expire with the close of the municipal year with or in which said term began; and where a term of office is specified as for a greater number of years than one year, the same shall terminate at the end of a municipal year, and the municipal year in which said appointment is made shall count as one year in determining the date of expiration of said term; provided, however, that any officer in said city shall hold his office until his successor therein shall qualify as herein required.

§ 19. The resignation of all city officers shall be in writing duly signed and acknowledged by the resigning officer, and the resignation of the mayor or any councilman, city clerk,

city assessor, city auditor or city manager shall be filed with the city council. The resignation of any other city official shall be filed with the city manager, and by him reported to the council at its next regular meeting. No such resignation shall take effect until it is accepted by the body or officer with whom it is filed as aforesaid.

§ 20. The city clerk, the city auditor, the city manager, or the city assessor may at any time be arbitrarily removed or discharged by the council of said city; and any other appointive officer of said city who is head of a department, bureau or board, or his deputy appointed by the city manager may at any time be summarily removed or discharged by the city manager. All other appointive officers or employees of the city not otherwise provided for in this section or by the civil service law or rules applicable to said city may at any time be summarily removed or discharged by the city manager; and if such removal or discharge is covered by said civil service law or rules such removal or discharge shall be made in the manner required by said law or rules; but said city manager may summarily suspend said accused officer or employee pending a hearing as required by said law or rules for a period not exceeding twenty days. Any action by the city manager under this section shall be reported by him to the city council at its next meeting.

("As superseded by Local Law No. 3, 1926, April 26, 1926").

§ 21. Should any appointive official of said city be temporarily unable for any cause, to perform his duties, the city manager, in case the original appointment was made by him, may make a temporary appointment of some person to act and discharge the duties of said office until such disabled officer shall resume his duties; when the original appointment was made by the council, such a temporary appointment may be made by the council.

§ 22. The mayor or other elective officer of the city may be removed from office by the governor, in the same manner as sheriffs; the governor may direct the inquiry required by law to be conducted by the attorney-general; and after charges have been received by the governor he may, pending the investigation, suspend the mayor or such other officer

for a period not exceeding twenty days.

§ 23. If any person having been an officer of said city shall not within ten days after notification and request, deliver to his successor in office, all the property, papers and effects of every description in his possession or under his control belonging to said city or appertaining to the office which he held, he shall forfeit and pay for the use of the city, one hundred dollars, besides all damages caused by his neglect and refusal to deliver, to be recovered in an action to be brought in the name of the city.

§24. The salaries of all city officers shall be payable in equal semi-monthly installments on the fifteenth and last days of each month. All fees received by any city official pursuant to statute or to an ordinance of said city shall be promptly and accurately accounted for by him to the city auditor on the last day of each month, and said moneys in such official hands thereby called for shall be paid over by him forthwith to the city treasurer for the benefit of the city, except as otherwise provided by this act or by statute.

("As superseded by Local Law No. 6, 1926, April 26, 1926").

§ 25. All appointments, removals and changes in status in the civil service of the city shall be made in accordance with the provisions of the civil service law.

§ 26. **City elections.** The first election under this act shall be held with the general election on the Tuesday succeeding the first Monday in November, nineteen hundred and seventeen, and every second year thereafter. For the purpose of such election, the city council shall from time to time divide the city into election districts. The election law and all acts amendatory thereof shall apply to and govern all elections of the city, except as herein otherwise provided.

§ 27. The city clerk shall cause a notice of every such election to be published, as required by the general election law. And the city council shall provide for each election district, all appliances and materials necessary and proper therefor.

§ 28. Every inhabitant of the city who shall at the time and place of offering his vote be qualified to vote for member of assembly, shall then and there be entitled to vote for all elective officers of the city at large and for all officers to be elected in his ward.

§ 29. Upon the completion of the canvass of the vote at each city election, the inspectors in each election district shall cause a separate statement thereof, so far as pertains to election of officers of the city, to be made and signed by them, and shall on the same day, or the next day, thereafter, file the same with the city clerk.

§ 30. The city council, so far as relates to the election of city officers, shall be the board of canvassers of the election returns, and the city clerk, if present, shall act as secretary of the board, and if he be not present, then some person shall be appointed by the board to act as secretary thereof. The board shall ascertain and certify the results of the election; and all the provisions of the election law, as amended, as to the powers, duties and procedure of county boards of canvassers, and that of their secretaries, shall, as far as pertinent, be applicable to said board of canvassers and shall regulate and control it in the discharge of its duties; and any error in its determination or statement may be corrected in the manner and by the procedure provided by the general election law. The city council shall convene as such board of canvassers on the Monday next succeeding the election in November, at seven o'clock in the afternoon at its usual place of meeting; they shall then recanvass the votes cast at such election in the election districts in said city, for the several candidates for city offices and supervisors, and the statement of votes filed in the office of the city clerk by the inspectors of election districts in said city shall be produced before such board of canvassers, and they shall execute in duplicate a certificate declaring such determination, one of which shall be filed with the city clerk and the other in the office of the board of election of the county of Niagara. In case of a tie vote, the city council shall fill such office by appointment for the full term from the two or more receiving the like and greatest number of votes.

§ 31. The city clerk shall enter such determinations, declarations and appointments in the minutes of the meeting of the city council.

§ 32. Before any tax for any sum shall be voted for by the electors of said city, as in this act provided, the city clerk by order of the city council shall publish a notice signed by him once in each week, for at least two successive weeks, in the

official newspaper of said city, stating that on a certain day to be therein named the electors will be called upon to vote upon such a proposition, specifying the objects and the sums proprosed to be raised respectively, and the location of the polling places in their respective districts.

§ 33. The city council shall provide polling places, ballot boxes or voting machines and other necessary material in each election district in said city, for all the elections in said city. The city council shall, before April first, in each year, divide said city into two or more tax election districts, and designate a polling place in each district for the purpose of tax elections, and cause descriptions of such districts to be filed forthwith in the city clerk's office.

§ 34. The city council shall, before April first, in each municipal year, from the whole number of inspectors of election, appoint three inspectors for each such tax election district; such inspectors shall be residents of the tax election dsitrict for which they shall be appointed. At least one week before any tax election shall be held the clerk shall notify in writing such inspectors of the holding of such tax election. And in the absence of such inspector the others shall appoint some person or persons to fill the vacancy. They shall elect one of their number as roll clerk, whose duty it shall be to ascertain from the copy of the assessment roll, furnished such inspectors as hereinafter provided, whether the name of a person offering his vote appears thereon. In case of the temporary absence of such roll clerk, one of the other inspectors shall perform such duties. They shall elect one of their number poll clerk, whose duty it shall be to record the names of all persons voting at such tax election. In case of temporary absence of such poll clerk, one of the other inspectors shall perform such duties. The votes shall be taken by ballot, which shall be endorsed "tax," and also with the sum proposed to be raised for each object or the proposition to be voted upon; and each sum or proposition shall be voted on separately. The city council shall at every such election provide sufficient printed ballots for the use of the electors thereat with the words "for" and "against" at the beginning of each item. Each elector shall indicate his vote as follows: By placing a cross before the word "for" if he

favors the proposition and before the word "against" if he opposes the proposition. The polls at any tax election shall be opened at nine o'clock in the forenoon of the day of such tax election, and shall be open without intermission or adjournment until eight o'clock in the afternoon. Immediately after the polls shall close it shall be the duty of the inspectors before taking any adjournment to canvass the votes and openly proclaim the results. They shall make a certificate of the number of votes cast for and against each proposition; such certificate duly verified shall be filed in the office of the city clerk not later than twelve o'clock noon of the day following any tax election. At the first regular meeting of the city council after the filing of the returns by the inspectors of any tax election as above provided, said city council shall proceed to canvass the returns so filed and declare the result.

("As superseded by Local Law No. 7, 1926, April 26, 1926").

§ 35. Any person of the age of twenty-one years or upwards, who shall be a resident of the city, and any corporation, incorporated under the laws of the state of New York and having its principal office designated and located in the city, by an officer thereof producing evidence of his authority, whose name shall appear, and upon whose property a tax shall have been assessed or imposed on the assessment roll of the city next preceding the tax election, as owner, or as executor or administrator, guardian, or agent of the owner, and, where the name of any deceased person shall appear and upon whose property a tax shall have been assessed as owner on such assessment roll, the executor or administrator of such deceased person producing evidence of his appointment, who shall be a resident of said city, and no other person or corporation shall be entitled to vote at any such tax election, provided, however, that no person or corporation shall be entitled to cast more than one vote at any such tax election and if there be more than one executor or administrator representing property assessed on such roll as aforesaid, only one such executor or administrator shall be entitled to vote. The city clerk shall furnish to the inspectors of election in each district for use at each tax election, a certified copy of the names of all taxpayers appearing upon said assessment roll arranged in alphabetical order.

ARTICLE III.

CITY OFFICERS; GENERAL POWERS AND DUTIES

Section 36. Oaths.
37. Bonds.
38. City to pay fee of surety company.
39. City to furnish offices.
40. Authority to administer oaths.
41. No officer to incur debt or be interested in contracts.
42. } Mayor.
43. }
44. City manager; estimates; negotiation of bonds, et cetera; city lights; public improvements; reports.
45. City clerk.
46. Licenses.
47. City engineer, deputy.
48. Inspector of buildings.
49. Commissioner of charities.
50. Supervisors.
51. Jurors.
52. Sealer of weights and measures.
53. City electrician; permits.
54. Stationary engineers.
55. Powers and duties of all city officers.

§ 36. Each officer of the city shall, before he enters upon the duties of his office, take and file his official oath in accordance with article thirteen of the constitution and section ten of the public officers law, and for omission so to do he shall be subject to all the liabilities and penalties prescribed by the penal code and the public officers law. The mayor, city clerk, corporation counsel, health officer, and city judge shall each file the certificate of his election or appointment, together with his constitutional oath of office with the clerk of the county of Niagara.

§ 37. Each city official receiving money in his official capacity shall, before entering upon his official duties, execute and file an official bond in accordance with the statutory construction law, and the public officers law, and for omission so to do he shall be subject to the penalties and liabilities of the statutes of the state of New York, in such case made.

provided and imposed. The penal sum named in any such bond, or the sum provided in such undertaking, as the maximum amount of the liability thereon shall be fixed by the council of said city, and shall be approved by the corporation counsel as to form, and by said council as to the amount and sufficiency of sureties. Said approval of said corporation counsel shall be endorsed thereon and said approval of said city council shall be by resolution, and a copy of it, certified by the city clerk, shall be attached thereto, or endorsed thereon. The bonds of the city treasurer and the city clerk shall be filed in the office of the clerk of the county of Niagara, state of New York. All other bonds given pursuant hereto shall be filed in the office of the city clerk. The council may at any time require any and all officials of said city to execute bonds in an amount determined by said council as a guarantee of the faithful performance of their duties as said officials.

§ 38. If a surety company shall be a bondsman the fee charged therefor by said surety company shall be payable by the city, but no agreement as to such fee or compensation shall be made without the approval of the council of said city.

§ 39. The city shall provide all officers and boards of said city with suitable and proper offices, and provide for the heating and lighting thereof, together with all necessary furniture, supplies and fixtures therefor; with suitable places for holding necessary meetings, but the same offices or rooms may be used for the accommodation of two or more officials or boards unless the city council shall determine that such offices or rooms are inadequate for such joint use.

§ 40. The mayor, city clerk, city auditor, health officer, city judge and corporation counsel shall each have the same power and authority to administer oaths and take and certify affidavits and acknowledgments as commissioners of deeds of said city. The superintendent of police and police sergeants, and each clerk of any board or commission in said city, shall have power to take affidavits and acknowledgments and administer oaths in respect to any account, bill, or other matter pending before any of said officers, the city council, or any board, bureau or commission, but shall take no fee therefor. Any person who shall take any oath or affirmation, or make

any statement under oath or affirmation, or make any affidavit under or by virtue of any provision of this act, who shall, under such oath or affirmation, or in such statement or affidavit, willfully swear falsely as to any material fact or matter, shall be guilty of perjury.

§ 41. No officer of the city shall have power to employ any person, incur any expense or purchase any material for or on behalf of the city, or any one of its officers, boards or committees, except as provided in this act. Nor shall any officer be, in any manner, directly or indirectly, interested as principal, agent, surety, or otherwise, in any contract to which said city is a party.

§ 42. **Mayor.** The mayor shall preside at all meetings of the council. He shall be the official head of the city for the service of civil process, and under the military law, and for all ceremonial purposes. He shall have no power to veto, but shall have the same power as a councilman to introduce and vote upon all matters coming before the council. If the mayor shall be unable to perform the duties of his office, in consequence of sickness or temporary absence from the city, he may designate a member of the city council to act in his stead, as mayor pro tempore, which designation shall be in writing, and be immediately filed with the city clerk. If he fails to so designate a mayor pro tempore, the city council shall have power to elect any other member thereof mayor pro tempore. The mayor pro tempore shall be vested with all the powers and duties of mayor during the continuance of such absence or inability.

§ 43. The Mayor shall have the custody of the seal of the city, and shall authenticate the acts of the city council and all instruments and papers authorized to be authenticated; but the absence of such authentication by the mayor of any act of the city council shall not affect the validity thereof. In addition the mayor shall possess such other powers and perform such other duties as are now conferred or imposed by law upon the mayor of the city if not inconsistent with the provisions of this act. The mayor shall have charge of all civic functions, celebrations, receptions and courtesies, shall sign all contracts of every kind and nature to which the city is a party, and shall perform such other ministerial functions

as the council may from time to time direct.

("As superseded by Local Law No. 4, 1926, April 26, 1926").

§ 44. **City manager.** The administrative and executive powers of the city, including the power of appointment of officers and employees, are vested in the city manager. The city manager shall (1) be the administrative head of the city government; (2) see that within the city the laws of the state and the ordinances, resolutions and by-laws of the council are faithfully executed; (3) attend all meetings of the council and recommend for adoption such measures as he shall deem expedient; (4) make reports to the council from time to time upon the affairs of the city, keep the council fully advised of the city's financial condition, and its future financial needs; (5) prepare and submit to the council a tentative budget for the next fiscal year.

1. The city manager, subject to the direction of the city council, shall discharge the duties imposed upon him by statute, and shall have general charge and supervision of the various departments, bureaus and offices, and employees thereof, of said city, excepting the department of public instruction and the board of library trustees.

("As amended by Laws of New York, 1917, Chapter 442, May 14, 1917").

2. Unless a later date is especially fixed by the city council, the city manager shall on or before the first day of May of each year submit to the city council an estimate of the expenditures and revenues of the city departments for the ensuing year, which estimates shall be compiled from detailed estimates and reports from the several offices, departments and bureaus on uniform blanks to be furnished by the city clerk under the direction of the city manager. The classification of the estimate of expenditures shall be as nearly uniform as possible for the main functional divisions of all offices, departments and bureaus and shall give in parallel columns the following information:

(a) A detailed estimate of the expense of conducting each bureau, office or department, as submitted by the same.

(b) Expenditures for corresponding items for the last two fiscal years.

(c) Expenditures for corresponding items for the current fiscal year, including adjustments due to transfers between appropriations plus an estimate of expenditures necessary to complete the current fiscal year.

(d) Amount of supplies and materials on hand at the date of the preparation of the estimate.

(e) Increase or decrease of requests compared with the corresponding appropriations for the current year.

(f) Such other information as is required by the city council or that the city manager may deem advisable to submit.

(g) The recommendation of the city manager as to the amounts to be appropriated with reasons therefor and such details as the city council may direct.

Sufficient copies of such estimates shall be prepared and submitted, that there be copies on file in the office of the city clerk for inspection by the public.

For the purposes of this section all the heads of departments, bureaus and officers empowered by the city charter or by the city ordinances to control or authorize expenditures, or to incur expense in any manner, on or before April first of each year, shall furnish to the city manager estimates in writing of the amount and expenditures for the next fiscal year in their respective departments, including a statement of the salaries of all their officers and employees, which estimates shall be in detail and fully itemized.

3. It shall be the duty of the city manager to investigate and make arrangements for the negotiations and sale of all bonds and certificates of indebtedness issued by the city to the highest bidder therefor and report the same to the city council for its consideration. If approved by the city council the city manager shall have authority to complete the negotiations as approved by the city council and when so completed the city treasurer shall when authorized by resolution of the city council, but not otherwise, deliver any such bond or certificate of indebtedness to the purchaser thereof upon receipt by the city treasurer of the amount or price named in the resolution authorizing such delivery.

4. It shall be the duty of the city manager, after public notice, to let to the lowest bidder who has given adequate security, conracts which shall be signed by the mayor for the

performance of any work or for the supplying of any materials for each of the boards, departments, bureaus or offices of the city respectively, except school and library books and school apparatus, in all cases where the work and materials cost to exceed two hundred and fifty dollars, unless by unanimous approval of the city council it is determined to be impracticable to procure the work or materials by contract so let.

5. In case of a contract for the performance of any work or the supplying of any materials for any board, bureau, department or office, except the board of education and the board of library trustees, where the work and material will cost two hundred and fifty dollars or less, the city manager may sign such contract and may authorize such work or the purchase of such materials, and in that case he shall make and sign an order in triplicate describing in detail the work performed or materials furnished, the price thereof, and shall deliver one copy to the person performing such work or furnishing such materials, another copy forthwith to the city auditor and the third copy he shall retain in his possession. The copy delivered to the person performing such work or supplying such material shall be returned by him to the city auditor with a verified bill for such work or material. The City of Niagara Falls shall not be liable upon any account or claim for such work or materials presented against it unless such order shall be made and accompany such account or claim when presented as above provided.

("As superseded by Local Law No. 2, 1926, April 26, 1926.")

6. Subject to the approval of the city council, the city manager shall prepare specifications for bids for the care, maintenance and lighting of the city lamps for a period not exceeding five years, and the contract therefor shall be let by him on bids adverised for pursuant to the provisions of this act relating to bids, accompanied by the certified check of the bidder, as required by this act, in the sum of five thousand dollars, which sum shall be forfeited to the city in case the bidder depositing the same shall be awarded the contract and shall not execute the same and furnish the bond required which shall be in the penal sum of twenty-five thousand

dollars. In case the contract shall not be awarded to the bidder such check shall be returned to him. Such contract shall be signed by the mayor.

7. The city manager may present to the city council a written statement of any public improvement or betterment including the purchase of the property to be acquired by purchase or by eminent domain for the city. Such statement shall be full and detailed, including the estimate of maximum cost, and the cost of maintenance after completion; it shall not be necessary, however, to include in any such statement the estimated cost of property to be acquired by eminent domain. If such statement relates to bridges over Gill creek, to water mains or pipes, to repaving or remacadamizing of streets or alleys, or to sewers, the city council may authorize the city manager to construct such improvement, betterment or purchase recommended in said statement at a cost not to exceed the estimated maximum cost of the same, as stated in said statement, and the city may issue its bonds therefor; provided, however, that the aggregate amount of the bonds issued for sewer purposes and outstanding shall, at no time, exceed the amount of five per centum of the total assessed valuation of the real property of the city, as shown by the last assessment roll thereof. And said city shall cause such tax to be levied and collected as may be necessary from time to time to pay the principal and interest of said bonds, as provided in this act, until said bonds and the interest thereon have been fully paid. If such statement relates to paving or macadamizing of any street or part of any street, which street or part of a street has not theretofore been paved or macadamized, the council may, in its discretion, in case sufficient money shall be in the street improvement fund to pay the estimated cost of street intersections, and shall, whenever resident owners of three-fourths of the street frontage on any such street or part of any such street shall sign a petition in writing to the city council asking for the paving or macadamizing of such street or part of any such street, and agreeing that the cost of all street intersections be assessed upon the property benefited, declare its intention of making such improvements, and state the estimated maximum cost thereof, and direct the city clerk to give public notice for ten

days in the official paper of the city, or in such other manner as the council may direct, of such intention to pave or macadamize said street or part of any such street, and direct the city manager to advertise for the paving and for the macadamizing of the same, requiring the bidder to specify the material proposed to be used in each bid. The city manager shall not, in calling for such bids, limit the same to any kind of paving or macadamizing, provided, however, that no bid for any kind of pavement or macadam shall be received or considered unless specifications for the laying and construction of such pavement or macadam shall have been approved by the city manager and placed on file in the city engineer's office before such bids are called for. Any person desiring to bid upon any material for which specifications are not on file in the city engineer's office shall present specifications for the laying and construction of such materials to the city manager for approval. The city manager may approve of such specifications or alter, modify or change the same, as he may deem proper. At the next meeting of the city council, after receipt of such bids, the city manager shall make a report thereof to the city council and the council shall publish the same with the substance of the several bids, in its minutes, in the official paper. Within thirty days from the date of publication of bids received, the council shall direct the paving or macadamizing of such street, letting the contract therefor to the lowest responsible bidder for such pavement or macadam, as may be reported by the city manager to the council as the best suited to the conditions. The city manager shall have the right, with the approval of the city council, to reject any and all bids in all cases.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

8. Every contract for public building or improvement, including contracts for work, labor, services and material, entered into on behalf of the said city shall be executed in triplicate; one of said triplicates shall be filed with the city clerk, one shall be retained by the city manager and the other by the contractor or the party to such contract. The bond given for the faithful performance of a contract shall provide for the faithful performance of all terms of such contract by the

contractor, and said bond shall be enforceable by the city. It shall be the duty of the city manager to approve or disapprove in writing every claim for any such work or construction presented for audit, and if he disapproves he shall give his reasons therefor.

("As superseded by Niagara Falls Local Law No. 3, 1928, amended by Niagara Falls Local Law No. 2, 1929, effective November 11th, 1929.")

9. The city manager shall have power under any contract provided for by this act, to modify or change the same providing such change shall not increase or decrease the contract price a sum exceeding two hundred and fifty dollars, but no change in construction work or material can be made by him without the approval of the city council.

10. The city manager and the mayor each shall have authority, with force, if necessary, to suppress all tumults, riots, and unlawful assemblages, revelings or other disorderly conduct to the disturbance or annoyance of the peaceful inhabitants of said city, and shall have power to call out and command the police or firemen whenever, in his discretion he shall deem it necessary, and such command shall be in all respects obeyed.

11. Whenever the city council shall require or authorize any work or construction relating to the harbor of said city, the city manager shall advertise for bids and have power to reject any and all bids therefor and to proceed in the same manner as in respect to other bids provided for in this act. If any bid is accepted it shall be that of the lowest responsible bidder conforming to the requirements, and upon such bid being approved by the city council the city shall enter into a contract in writing with the bidder which shall be executed in triplicate one of which shall be filed with the city clerk, one remaining with the city manager and the other delivered to the contractor. The person taking such contract shall execute a bond to the city for the faithful performance of said contract which shall be approved by the corporation counsel as to form, and by the city manager as to sufficiency.

12. The city manager shall annually report to the city council not more than thirty days after the close of the fiscal year, a correct and detailed statement setting forth the moneys

received and expended, the sources thereof, the dates or times of payment of all obligations incurred and the extent, progress and cost of all work done relating to the harbor and harbor properties of said city.

13. The city manager shall have power to purchase necessary stationery, including the printing thereof, and general office supplies for the use of the various departments, bureaus and offices of the city, and claims therefor against the city, approved by the city manager, may be paid in the first instance from the contingent fund. The city manager shall keep an account of such stationery and supplies furnished to various departments, bureaus and offices, and take receipts therefor from the heads or deputies of such departments, bureaus or offices. Said manager shall, from time to time, or when directed by the council, file a full report thereof, with such receipts attached, with the city auditor and upon the filing of such report, the city auditor shall credit the contingent fund and make the proper charge against the various departments, bureaus and offices, as appears from such report and receipts.

§ 45. **City clerk.** 1. The city clerk shall keep all papers, books and documents belonging to the city not otherwise provided for.

2. He shall give immediate notice in writing to any person appointed to office in said city of his appointment, which notice shall be deposited in the post office of said city properly addressed to such appointee, with postage prepaid.

3. He shall be the clerk of said council, attend all meetings thereof and keep a record of all its proceedings. He shall see that all ordinances, notices, resolutions and other matters requiring notice and publication are promptly and correctly published in the official paper of the city, or otherwise as the council directs.

4. He shall keep bound regular files of the newspapers containing the city advertisements, and shall carefully arrange and file all other papers and documents convenient for use.

5. Within twenty-four hours after every meeting of said council he shall make and deliver to the city treasurer a copy certified by him of all resolutions or ordinances of said council relating to the city finances, and at the same time file a du-

plicate of such report with the city manager.

6. He shall within forty-eight hours deliver to the mayor a certified copy of all resolutions, ordinances or by-laws passed by the said council, for authentication.

7. He shall keep an accurate account of all moneys received by him for the city and immediately upon receipt thereof pay over the same to the city treasurer, taking a receipt therefor, and file the same in his office and report the same to the said council at its next meeting.

8. The books and papers in his office shall be produced by him upon reasonable demand of any person, and upon like demand and tender of fees at the rate of five cents per folio he shall furnish a copy of any record or paper filed with him as such clerk.

9. The city clerk shall give notice in writing to inspectors of election of the several wards, of the first meeting of said inspectors for the purpose of registering the names of legal voters in each year, and of every election to be held under the provisions of this act at least one week before the day provided by law for the first meeting of said inspectors for the purpose of registration; said notice shall be delivered personally or by depositing the same in the post office in said city, and directed to said inspectors respectively at their proper addresses, with the postage thereon prepaid. And the said inspectors shall proceed as provided by the general laws of the state in relation to elections other than in towns.

10. It shall be his duty to report forthwith in writing to the city manager any delinquencies on the part of any person dealing with his office.

11. The city clerk shall perform all the duties imposed on clerks of towns not inconsistent with this act, or with the statutes of the state of New York relating to clerks of cities, and his office is hereby declared a town clerk's office for the purpose of depositing and filing therein all books and papers, including chattel mortgages, required by law to be deposited, filed or entered of record in a town clerk's office; and he shall possess all the powers and discharge all the duties and receive the fees of a town clerk, except so far as may be inconsistent with the provisions of the aforesaid act. Copies, printed or written, of all papers filed in his office, transcripts

thereof, and of the records and proceedings of the city council, and all copies of the ordinances or resolutions of said city certified by him under the corporate seal, shall be evidence in all courts and places with like effect as the original would be if produced. In case of his absence from any meeting of the city council, or of the boards of which he is clerk, or in case of his absence or inability to discharge the duties of his office, the deputy city clerk shall discharge the duties of said clerk at such meeting or meetings and during his absence or inability, and said deputy clerk shall possess all the powers and discharge all the duties of said city clerk during such absence or inability.

§ 46. No license for any purpose granted shall be valid until, countersigned by the city clerk, nor until the sum of money required therefor shall be fully paid in advance to the clerk; and the said city clerk shall enter in an appropriate book the name of every person to whom such license shall be granted, the date thereof, the time during which it shall continue in force, and the sum paid for the same; and it is hereby made the duty of the city manager to call upon the superintendent of police for a detail of one or more policemen to enforce the ordinances of said city in relation to all persons required to take out licenses, and he shall report to the corporation counsel for prosecution all violations of said ordinances that may come to his knowledge.

("As superseded by Local Law No. 2, 1926, April 26, 1926.")

§ 47. **City engineer.** Subject to the direction of the city manager it shall be the duty of the city engineer to perform all engineering and surveying services and to supervise all work done for said city in which the skill of his profession may be required or useful. He shall be the head of the bureau of engineering and shall have charge and control of the subordinates and employees in said bureau. He shall report to the city manager when and as directed by the city manager concerning the matters and affairs within said bureau and shall discharge such duties requiring his professional skill in respect to any matter in which the city is interested as required by the city manager or the ordinances of said city or the provisions of this act.

It shall be the duty of the deputy city engineer to discharge the duties of the city engineer in the absence of that officer or in case of his inability to act. He shall perform such other duties as may be required of him by the city engineer, city manager or city ordinances appertaining to his office. It shall be the duty of the deputy city engineer to perform the duties of building inspector where the duties of such official are required by statutes of the state of New York or by the ordinances of said city.

§ 48. "Repealed by Local Law No. 2, 1925, effective November 23, 1925."

§ 49. **Commissioner of charities.** The commissioner of charities shall be at the head of the bureau of charities of said city, and under the direction of the city manager; shall have superintendence and control of all subordinates and employees in said bureau, and shall discharge such duties pertaining to said bureau as the city manager directs, and in addition thereto it shall be his duty to investigate the character, habits, location or residence, condition and necessities of all applicants for assistance and relief, the result of which shall be recorded in a proper book to be kept for that purpose. (He may employ two physicians to attend the poor; their compensation shall be fixed by the council.) The commissioner of charities at the first regular meeting of the city council in each month shall under oath report in detail to the council all expenditures for temporary relief, medical attendance and allowances made by him as such commissioner during the month preceding, which report shall specify the name and place of abode of each person relieved, the quantity and price per pound or otherwise, as the case may be, of each article furnished or ordered, and from whom the same was obtained; said report shall also contain the names and places of abode of all persons to whom meals or lodgings have been furnished, from whom obtained or by whom furnished, and the cost of same. Said report shall be filed with the city clerk. The council shall cause each of said reports of the commissioner of charities (except the name of the persons to whom orders for temporary relief were given) to be published in full, as part of the proceedings of the meeting. All charges and accounts against said city for service rendered, acts done, or meals, provisions or supplies

furnished under the direction of the commissioner of charities of said city under the provisions of this act, shall be made out in items, duly verified by the persons entitled to the payment thereof, and presented with the duplicate order authorizing the same, to the council at the first regular meeting of said council in each month for auditing bills. The council shall audit all such claims, accounts and charges, and when so audited the commissioner of charities is authorized to pay and discharge the same out of the moneys received by him in pursuance with section eighty-one of this act; but no payment shall be made by said commissioner for such purpose until the account therefor has been duly audited as aforesaid. Except as herein otherwise provided, said commissioner shall have the same powers and duties, liabilities and responsibilities as overseers of the poor in the towns of Niagara county, in all matters pertaining to the support and maintenance of the poor of said city, and as to those matters the city shall be regarded as a town of said county. The affidavits annexed to said commissioner's report, or to any of said bills, accounts or vouchers, shall not be conclusive upon the said board in case it shall appear that any claim or item in said report is illegal, unjust or improper, in whole or in a part but in such case such item or portion thereof shall be disallowed, and said commissioner and his sureties shall be liable for the amount thereof. The city shall continue to be the owner of all articles or supplies furnished to any poor person or applicant until the same are consumed. If any person to whom the same shall be furnished shall sell or exchange the same for money, or intoxicating liquor, or, in any way dispose of the same other than in the manner directed, such conduct shall be deemed a misdemeanor.

§ 50. **Supervisors.** The supervisors of each of the said wards of the city shall have the same powers and duties as supervisors of the towns in the county of Niagara, except as otherwise provided in this act, and the said supervisors shall be members of the board of supervisors of said county.

§ 51. The city shall be regarded as a town under the provisions of article two, title three of chapter two of the code of civil procedure, respecting the return of trial jurors; and the supervisors and the city clerk shall perform the

duties therein enjoined upon the supervisors, assessors and town clerks of the several towns of the state except that the duplicate of the return of jurors made by them to the county clerk shall be filed with the city clerk.

§ 52. **Sealer of weights and measures.** It shall be the duty of the sealer of weights and measures, under the direction of the city manager, in addition to duties imposed upon him by the general statutes of the state of New York, to perform the duties imposed upon town sealers of weights and measures under said statutes to test all scales, weights and measures in said city as directed by ordinances; to investigate all complaints of the violation of the law in said city relating to weights and measures and forthwith report in writing to the corporation counsel such violations and the full particulars thereof. He shall charge and collect for testing scales, weights and measures in said city such fees as sealers of weights and measures in towns are entitled to charge and collect by the general statutes of the state of New York. When no fee is prescribed by statute he shall charge and collect such fee as is prescribed by the ordinances of said city. He shall not charge or collect for any number of examinations during one year an aggregate greater than the fee fixed for one examination. He shall perform the duties of pound master within said city without extra compensation. He shall deliver to his successor in office on demand the standard weights and measures which shall be provided him by said city and which shall be the property of said city.

§ 53. "Repealed by Local Law No. 2, 1925, effective November 23, 1925."

§ 54. There shall be a board of examiners of stationary engineers, two of them shall be stationary engineers of at least three years' experience, and one of whom shall be a mechanical engineer having received the degree of mechanical engineer from a school or college requiring a residence course of not less than three years' instruction before conferring such degree. Two members of the said board shall constitute a quorum and the concurring vote of two members shall control its acts. The said board, subject to the provisions of this act, shall have cognizance, direction and control of the inspection of steam engines and boilers used in said city and of the examination

and licensing of stationary engineers, and shall perform such other duties as may be prescribed by the ordinances of said city or the general statutes of the state of New York. It shall be the duty of said board to cause to be enforced the ordinances of the city council prescribing qualifications for any person who may act as fireman in charge of any boiler within said city, but such fireman shall not be required to pass an examination except as to the ordinary duties of a fireman.

§ 55. The powers and duties of all city officers and employees shall be such as are prescribed in this act, or when not provided herein, as provided by existing general laws and applicable to such officers or employees, or as may be designated and prescribed by the city manager with the approval of the council.

ARTICLE IV.

THE CITY COUNCIL

Section 56. Legislative powers; council; how constituted.
57. Quorum; meetings; rules; journal.
58. Organization.
59. Ordinances; appropriation of money; lease or sale of franchise.
60. Present ordinances to remain in force.
61. Ordinances and resolutions to be recorded by clerk; evidence.
62. Certified copies as evidence.
63. Penalty for violation of ordinance; injunction.
64. Investigations by council.
65. Appropriation for hospitals.
66. City clerk custodian of documents.
66-a. Official paper.
67. Council to fix salaries.
67-a. Resolutions and ordinances to be published.
68. Council to have control of water works.
69. Powers of council relating to water supply.
70. Tax election for water supply.
71. Bonds issued for water supply.
72. City may take water from Niagara river.
73. Application for water.
74. Water fund.
75. City manager to furnish list of water rates due.

76. Users of water liable to city.
77. City manager to report condition of water works.
78. City manager to keep accounts of receipts and expenditures of water works.
79. City to raise tax to pay for water for city purposes.
80. Expenses to be paid from water fund.
80-a. Special powers of the council.
81. Tax election legalized.
81-a. Contracts; payment of expenses and damages and acquisition of real property authorized.
81-a. Dangerous structures may be torn down.
81-b. City authorized to acquire real property and agree upon damages to real property to widen Main street.
81-c. Power to remove buildings, etc., to widen Main street.
81-d. Power of council to fix ward boundaries.

§ 56. All the legislative powers of the city, however conferred upon or possessed by it, are hereby and shall be vested in a board known as the "council of the city of Niagara Falls" composed, until their successors are elected as herein provided, of the mayor and the four councilmen duly elected at the general election held on the second day of November, nineteen hundred and fifteen, and thereafter of their successors, so elected. Such council is and shall be for all purposes the common council of the city, and whenever the term "the council" or "the city council" shall be used herein such terms shall be deemed to refer to said "council of the city of Niagara Falls." It shall in addition or supplemental to the authority conferred under general laws and in particular all the power and authority conferred by chapter four hundred and forty-four of the laws of nineteen hundred and fourteen, have power to adopt resolutions and enact, amend and repeal ordinances consistent with the laws of the state for the government of the city and the management and control of its business and property, for the preservation of good order, peace and health, for the safety and welfare of its inhabitants, and the protection and security of their property, for the prevention and extinguishment of fires, including the regulation of

the construction, alteration, repair and removal of buildings, for the supression of vice, for the benefit of trade and commerce, for the exercise of its corporate powers and the performance of its corporate duties and for carrying into force and effect any of the provisions of this act. The council shall also have power to enact, amend and repeal ordinances, consistent with the laws of the state and of the United States, regulating and fixing the rate of compensation to be charged or taken by cartmen, truckmen and porters, and the owners, drivers and operators of vehicles used for the transportation of passengers or property for hire; regulating the running at large of dogs and licensing the same; regulating and licensing such trades, occupations, businesses, circuses, shows, theatrical performances and exhibitions, and places of public entertainment and amusement as the city council may deem proper, and fixing the fees or tax to be charged and paid for and prescribing the manner in which and the conditions on which licenses under this section or any other provision of this act shall be granted.

§ 57. Each member of the council, including the mayor, shall have the right to vote on all questions coming before it; a majority of the council shall constitute a quorum, and the affirmative vote of a majority of all the members of the council shall be necessary to adopt any motion, resolution, or ordinance. Regular meetings of the council shall be held weekly at a time and place fixed by ordinance; special meetings may be held at any time upon written consent signed by all the members of the council specifying the time and object of such meeting, which consent shall be entered upon the minutes of the council and filed in the office of the city clerk; special meetings may be called by any member on three days' notice, specifying the object of the meeting. Such notice shall be filed in the office of the city clerk and a copy thereof served upon each member of the council personally. All legislative sessions shall be open to the public, and every matter coming before the council for disposition shall be put to a vote whereon the ayes and nays shall be called and recorded. A full and accurate journal of the proceedings of the council shall be kept, and shall be open to the inspection of any elector of the city. Except as hereinafter provided, the city

council shall determine the rules of its procedure and be the judge of the election and qualification of its members and shall have power to compel the attendance of absent members, by fine or otherwise; to adjourn its meetings to such times and places within said city as it may deem proper.

§ 58. The council of said city shall meet and organize on the first day of January of each year except if such date falls on Sunday, then on the second day of January at such time and place as the council of said city shall have held its meeting in the preceding year.

§ 59. No ordinance shall be passed by the council on the same day on which it is introduced except by unanimous consent; and no appropriation of money shall be made for any purpose except by ordinance or resolution specifying by items the amount thereof and the department or specific purpose for which the appropriation is made. No ordinance or resolution shall be passed authorizing a sale or lease of any real estate or franchise belonging to the city, or under the control of the city, except by a majority vote of all the members of the council, and in case of the proposed sale of real estate, or proposed sale or proposed lease of a franchise, the resolution or ordinance must provide for a disposition under proper regulations for the protection of the city, at public auction after public notice of at least three weeks, to the highest bidder, unless the best interests of the city shall be subserved by dispensing with a sale at public auction, and the same shall be so decided by a majority vote of the council. A proposed sale or proposed lease at public auction shall not be valid nor take effect unless the aforesaid notice shall have been given or dispensed with as herein provided, and unless the sale or lease shall be made to the highest bidder. The council is hereby fully authorized and empowered to renew, ratify, and confirm any grant heretofore made, or consent heretofore given, or attempted to be so made or given, for the use of or for the right to use any street, highway or public place of or now within said city, or any part of said streets, highways or public places; and may, upon the application of and with the express assent of the owner of any consents, grants or franchises, so given or attempted to be given, revise, consolidate and unite the provisions of any two or more thereof, which have been

heretofore granted to or are possessed by any one person or corporation.

§ 60. The ordinances and resolutions of the council in force and effect on December thirty-first, nineteen hundred and fifteen, shall continue, subject to repeal or amendment, to have the same force and effect as before the passage of this act, except where the same in any manner conflict herewith.

§ 61. The city clerk shall, upon an ordinance or resolution becoming effective, record the same in a book kept by him for that purpose. Said record shall include the signature of the mayor, the attestation of said clerk and the corporate seal. As soon as due publication thereof is completed the clerk shall add his certificate thereof to said record; such record or certified copy thereof shall be presumptive evidence of the passage of an ordinance or resolution.

§ 62. The entries in the book of by-laws, journals and minutes of the council and of the bureau of health and any of the records required by this act to be kept by the clerk of any office, department or board or a copy thereof certified by the clerk of such office, department or board shall be presumptive evidence of the proceedings therein contained. All other public records and documents, tax and assessment rolls and maps, in any office of the city, or a copy thereof, certified to by the city clerk or other city officer having custody thereof and attested by the mayor under the seal of the city, shall be admitted as evidence in any court. Printed books of the ordinances, of the proceedings of the council and of any board of the city, purporting to have been printed by the authority of the council, shall be received in all courts and places as presumptive evidence of such ordinances, and of the facts stated in such proceedings, and that the same have been regularly enacted, and published as required by this act prior to the printing of them in such book.

§ 63. Any person violating an ordinance of the council or of the city shall be guilty of a misdemeanor, and be punishable by a fine not exceeding fifty dollars and by imprisonment not exceeding six months or both, and the council may provide, in a general ordinance or by any ordinance, that any person guilty of such violation shall be liable to pay to the city a sum named therein as a penalty, not exceeding the sum

of one hundred dollars, to be recovered in a civil action in the name of the city. The city may maintain an action to restrain by injunction the violation of any ordinance of the council or of the board of health, notwithstanding such ordinance may provide a penalty for such violation.

§ 64. The council shall have the power to enquire into any matters relating to the affairs of the city, to investigate the management of all city officers and departments, and shall have access to all records and papers kept by any city officer or department; and shall have power to compel the attendance of witnesses and the production of books, papers or other evidence, at any meeting of the council, or of any committee thereof, and for that purpose may issue subpoenas signed by a member of the council. Disobedience of such a subpoena shall be punishable by the body issuing it in the same manner and to the same extent as provided in the case of a subpoena issuing out of the supreme court.

§ 65. The council is hereby authorized to appropriate, and the city may pay annually to any hospital or hospitals established or which may hereafter be established in said city for the care, support and maintenance of such of the inmates of said hospital as are actual residents of the city of Niagara Falls, and are received and cared for, supported and maintained therein pursuant to the rules established by the state board of charities, a sum which in any one year shall not exceed twenty per centum of the moneys received by said city under the provisions of the liquor tax law. Such appropriation may be apportioned among said hospitals as the council may determine.

§ 66. The city clerk shall keep all papers, books and documents belonging to the city not otherwise provided for.

§ 66-a. The city council at as early a date in each year as may be practicable shall authorize the making of a written agreement with the publishers of a daily newspaper published in the city of Niagara Falls and having a daily bona fide circulation of not less than one thousand copies, providing for the printing of the proceedings of said council and furnishing printed copies of the same, and the publishing of all ordinances, notices and other matters required by law or by the council for a period of one year. Such agreement shall provide

for a rate not exceeding the lowest rate which said publisher receives frrom regular commercial display advertisers for the quantity of space used or the lowest rate charged its regular customers for the same class of printing. Before such agreement shall be executed by the city the publisher shall furnish a surety company bond to said city in such an amount as the council shall fix, conditioned for the faithful performance by said publisher of the terms of such agreement, which bond shall be approved by the corporation counsel as to form and by the city council as to sufficiency. Upon the execution of such agreement the newspaper therein designated shall be and become the official paper of said city for the period of said agreement or until another paper is designated as such. When a newspaper shall be so designated, the publication of all such matters as shall have been commenced in the paper that shall be superseded by such designation shall continue to be published in the paper so superseded until completed, with the same force and effect as if no change had been made. In case the paper so designated shall cease to be published during the term of said agreement, the council shall have power to designate another paper as herein provided. Whenever it may appear to the council that the rates offered by said newspaper are unsatisfactory, such other means for securing due publicity may be employed in lieu of newspaper advertising as the council may by resolution determine.

§ 67. Except as otherwise expressly provided in this act the council shall have the power to fix from time to time the salaries and compensation of the officers and employees of the city.

§ 67-a. Every resolution and ordinance of the council shall be published in and as a part of the proceedings of the council, once only, in the official paper of said city.

§ 68. The council shall have the supervision, management and control of the water works of said city, and shall have power:

1. To improve, extend, enlarge, alter and repair said water works plant and system, and the water mains, pipes and machinery, and apparatus connected therewith and appurtenant thereto; and to construct, maintain and operate a power plant and develop and generate electrical or other power for

the operation of such water works plant and system, and if sufficient money shall not be available for such purposes, to issue and sell the bonds of the city therefor. The powers conferred by this subdivision may be exercised by the council upon its own motion or upon the recommendation of the city manager and without submission of the question to the vote of the resident taxpayers of the city.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917").

2. To devise plans and sources of water supply which will enable the whole city to be furnished with an abundant supply of pure and wholesome water for public and private use; to prescribe suitable rules and regulations for the use of water, and for the protection of the existing supply, and of any future supply, from pollution and contamination.

3. To fix and establish prices to be charged for water supplied for public and private use; to prescribe the form of application for water, and the rules of making connections or attaching fixtures to the water supply system for public or private use of water; to require, in its discretion, the giving of bonds by plumbers to secure the city against loss from omissions to report connections and fixtures and from improper or defective work; to require, in its discretion, applicants for water to make a cash deposit to secure the payment for same; and to discontinue the service of any user for nonpayment.

("As amended by Laws N. Y. 1919, Chapter 358—Effective May 3, 1919").

4. To sell to a corporation or individual outside of the city, the right to make connections with the mains for the purpose of drawing water therefrom, and fix the prices and conditions therefor; but the council shall not sell or permit the use of water under this subdivision if thereby the supply for the city or its inhabitants shall be insufficient.

5. To contract for such electrical or other power as may be necessary for the proper operation of the city water works, the term of any such contract not to exceed five years.

6. To contract to supply any water works company having a water works plant in said city with water at such rates and prices and upon such terms and conditions as may be

agreed upon, the terms of any such contract not to exceed five years.

7. To contract with any person, firm or corporation, for a term not exceeding five years, for a supply of water for the fire hydrants on the mains of the private water company in said city, or any portion thereof.

§ 69. The council shall, subject to the provisions of the next section, have power:

1. To purchase, or to acquire and take in the manner provided by the condemnation law, in the name of the city of Niagara Falls, the water works plant, franchises, water mains, water pipes and all easements, lands, property and appurtenances thereto, within said city, owned or operated by any water works company.

2. To purchase, construct, maintain and operate a new water supply system, a new or additional water works plant, a filtration plant, and such mains, pipes, pipe lines, tunnels, intakes, machinery, apparatus and appurtenances, as it may deem advisable, and in the name of the city to purchase, or acquire and take in the manner prescribed by the condemnation law, such lands or property within or without the city as it may deem necessary for such purpose.

§ 70. Whenever the council shall determine to exercise any of the powers conferred by the preceding section, it shall prepare a plan or prospectus, in writing, setting forth briefly the work proposed to be done, or a description of the lands or property proposed to be purchased or acquired by condemnation, or both, as occasion may require, and submit the same to a vote of the resident taxpayers of said city at a tax election to be called, noticed and held as herein provided. Prior to the holding of any such tax election, the council shall cause such plan or prospectus, together with a statement of the estimated cost of the work proposed to be done, or of the lands or property proposed to be purchased or to be acquired by condemnation, the estimated cost of the maintenance thereof, the estimated receipts or revenues to be derived therefrom when completed or acquired, and such other matter as it may deem proper, to be published in three consecutive issues of the official paper, and of such other daily newspapers published in said city, as may be designated by said council.

Before any tax election shall be held hereunder, the city clerk by order of the council, shall publish a notice signed by him, twice a week for at least two successive weeks, in the official paper and in such other daily newspapers published in said city, as may be designated by said council, stating that on a certain day to be named therein, the qualified electors shall be called upon to vote upon such proposition or propositions, specifying the same, and setting forth the location of the polling places in the respective tax election districts. The inspectors of election shall make a certificate of the whole number of votes cast in such election, and of the number of votes cast for and against each proposition submitted, and duly verify the same and file it in the city clerk's office not later than twelve o'clock noon of the day following any such tax election. At the next regular meeting of the city council following such tax election, the council shall convene at its usual place and time of meeting and the certificates from each polling place shall be produced, and the council shall forthwith canvass the same, and declare and make a certificate in writing of the result, and cause the same to be filed in the city clerk's office. If a majority of all votes cast at such election shall be in favor of the proposition, the council shall have power to forthwith proceed with the work, or to purchase or to acquire by condemnation the lands or property specified in said proposition, or both as the case may be, and to issue the bonds of the city therefor in the manner and form herein provided. The provisions of sections thirty-two, thirty-three and thirty-four of this act shall apply to any such tax election, except as herein otherwise provided, and except that the polls at any such election shall be opened at nine o'clock in the forenoon and shall remain open until eight o'clock in the afternoon.

("As superseded by Local Law No. 7, 1926, April 26, 1926").

§ 71. The bonds of said city by any provision of the last three sections authorized to be issued shall bear interest at a rate not exceeding five per centum per annum and shall be sold at not less than par, and shall be of such denomination and payable, principal and interest, at such place or places and at such time or times as the council shall determine, except as hereinafter provided. Said bonds shall be signed by the

mayor, attested by the city clerk and the seal of the city, and shall be countersigned by the city treasurer, and the city clerk and the city treasurer shall each keep in a book to be provided for that purpose a record of the number, denomination, rate of interest, date and maturity of every bond attested and countersigned by them and a like record of every bond negotiated and delivered with the name of the purchaser and the amount realized therefor. Said bonds shall be retained by the city treasurer when countersigned by him, and it shall be his duty to safely keep and have the custody of the same continually until negotiated and sold as herein provided. The city manager shall negotiate and sell all such bonds to the highest bidder therefor, and when any such sale has been completed the city treasurer shall, when authorized by resolution of the council so to do, but not otherwise, deliver such bonds to the purchaser thereof upon receipt by him of the amount or price named in the resolution authorizing such delivery. Every such bond when so delivered by said treasurer shall be and then become an obligation against the city of Niagara Falls for principal and interest. A sinking fund shall be created on the issuing of such bonds for their redemption, and upon this act taking effect for the redemption of all such bonds heretofore issued, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. The amounts to be annually paid or placed in the sinking fund as in this section provided shall be taken from the water revenue of said city, if sufficient there be after paying other charges thereon, and any deficiency thereof levied and collected along with and as a part of the other taxes of said city.

("As superceded by Local Law No. 1—Effective Feb. 14, 1927.")

§ 72. The city of Niagara Falls shall have power and it is hereby granted the right to take and use so much of the water of the Niagara river as may be required to supply said city and its inhabitants with an abundant supply of water for public and private use, and for that purpose the commissioners of the land office may grant to said city the right to place, construct and forever maintain a suitable and proper

intake pier or station at such place in said river as they may determine, and to lay and construct such tunnels or pipe lines under the bed of said river as may be deemed advisable to supply said city with such water upon such conditions as they may prescribe, provided, however, that such pipe lines or tunnels or such intake pier or station shall be so placed and constructed as not to unnecessarily interfere with or impede commerce and navigation on said river.

§ 73. Application for water shall be made to the superintendent of public service by the owner of the property upon which said water is to be used; water shall be paid for at such time and at such place as may be prescribed by the rules and regulations adopted by the city council. No application for water shall be granted to any person who shall be in arrears on any previous application for water or use thereof, nor until the applicant or property owner has paid all costs, charges and expenses, if any, incurred by any previous cutting off of the water from any premises on account of such arrearage.

("As amended by Laws N. Y. 1919, Chapter 358—Effective May 3, 1919").

§ 74. All moneys received from sale of water and from the sale of bonds in connection with said water works shall be placed by the city treasurer to the credit of the water fund and shall only be used for the purpose provided for in the city charter or city ordinances. No money shall be drawn from the water fund except by warrants and orders directed by the city council, signed by the city clerk and countersigned by the city manager; each of said warrants shall specify for what purpose the amount therein mentioned is to be paid. Applications for such warrants must be accompanied by a proper voucher showing the purposes for which said warrant is to be drawn and approved or disapproved by the city manager with his reasons therefor. No moneys belonging to said fund shall be drawn from city depositors except on checks or drafts signed by the city treasurer; all such warrants and checks shall be numbered consecutively.

("As amended by Laws N. Y. 1919, Chapter 358—Effective May 3, 1919").

§ 75. In case of a change of ownership of any premises

it shall be the duty of the successor thereto to notify the superintendent of public service of such change forthwith. All arrearages for water at the time of the making of the next city tax roll shall be added to said tax roll and assessed against the property whereon the said water was used, and collected in the same manner subject to the same percentages and interest as other taxes levied against said premises.

("As amended by Laws N. Y. 1919, Chapter 358—Effective May 3, 1919").

§ 76. The presenting of any application for water to the superintendent of public service and the granting thereof by the city and the actual use of water pursuant to such grant in or upon the premises of any person shall render such applicant and said user liable to said city for all water used and for all sums due the city under the rules and regulations adopted by the city council.

("As amended by Laws N. Y. 1919, Chapter 358—Effective May 3, 1919").

§ 77. At the first meeting of the city council of January and July in each year, unless otherwise permitted by the city council, the city manager shall report to the city council a statement of the condition of the water works and the receipts and expenditures connected therewith for the six months preceding the first day of the month in which the report is made.

§ 78. The city manager shall keep an account of all the receipts and expenditures connected with the said water works in proper books to be provided therefor, in such manner as at all times to show the exact amount of moneys received and expended. Said book shall at all reasonable hours, on all days except Sundays and legal holidays, be open to the inspection of the mayor, councilmen, corporation counsel or any persons designated by the city council.

§ 79. It shall be the duty of the council to include in the annual tax budget, and to levy, assess and collect each year, with the other taxes of said city such sum of money as shall be sufficient to pay the rents and charges fixed and established by the council, for water supplied to said city for fire hydrants, public schools, public buildings, and other public pur-

§ 81. The council shall at some regular meeting thereof in the month of September in each year, make an estimate of the sum which it shall deem necessary for the temporary relief and support of the poor in the city for the ensuing fiscal year, and to supply any deficiency in the preceding year, and shall cause such estimate to be laid before the board of supervisors of Niagara county at its then next annual meeting. The board of supervisors shall cause the said sum to be levied and collected in said city in the same manner and together with other taxes by it levied therein, (and such sum shall be retained by the city treasurer on his settlement with the county treasurer, and paid over to the commissioner of charities from time to time as the council may direct,) and such sum shall be retained by the city treasurer of said city from the total sum of moneys collected by him for taxes, and payable over by him to the treasurer of said county, under this charter, in such proportion as the whole of said sum necessary for said temporary relief and support of said poor shall bear to the whole sum to be collected by said city treasurer for all taxes to be remitted to said county treasurer as aforesaid. Said moneys shall be so retained by said city treasurer upon his settlement with the county treasurer and shall be paid over by him to the commissioner of charities of said city from time to time as the city council of said city directs. Whenever, under the provisions of this charter, there remains in the hands of said city treasurer uncollected taxes collectable and payable over by him to said county treasurer, said city treasurer shall make return of said uncollected taxes to said county treasurer as provided in this act, and thereafter whenever the said county treasurer shall collect said unpaid taxes or any part thereof, he shall remit to said city treasurer such portion thereof as would have been retainable by said city treasurer under the foregoing provisions of this section had the city treasurer collected said taxes. Said remittances shall be made by said county treasurer at the end of each month and said city treasurer upon receipt of the same shall pay over the same to said commissioner of charities of said city from time to time as the city council of said city shall direct.

("As amended and superseded by Local Law No. 5, 1931 —Effective December 14, 1931.")

poses, and the council shall on or before the first day of February, in each year, cause such amount to be transferred to the water fund.

§ 80. All charges, expenses, indebtedness and obligations incurred under the provisions of this article relating to the water bureau shall be a charge on and against said city and together with the principal and interest of all water bonds of said city now outstanding shall be paid from the water fund. It shall be the duty of the city manager on or before the first day of April in each year to estimate the probable revenues to be derived from the city water works and the charges and expenses to be paid therefrom during the next fiscal year, and if it shall appear that such revenues will not be sufficient to pay such charges and expenses, he shall make an estimate of the deficiency, in writing, and present the same to the council and it shall be the duty of the council to include the amount thereof in the tax budget for such year, and to levy, assess and collect the same in the manner and form provided in this act for the levy and collection of other city taxes. The council shall on or before the first day of February in each year transfer the amount so raised by the tax to the water fund.

§ 80-a. The council shall have power to erect, construct and maintain such poles and conduits, and string such wires under, over, through and along the streets, avenues, alleys and public places of said city as may be necessary or advisable for the carrying and transmission of electric power for the operation of the city water works pumping station and filtration plant, and to issue the bonds of the city for the cost thereof.

§ 81. The council shall at some regular meeting thereof in the month of September in each year, make an estimate of the sum which it shall deem necessary for the temporary relief and support of the poor in the city for the ensuing fiscal year, and to supply any deficiency in the preceding year, and shall cause such estimate to be laid before the board of supervisors of Niagara county at its then next annual meeting. The board of supervisors shall cause the said sum to be levied and collected in said city in the same manner and together with other taxes by it levied therein, and such sum shall be retained by the city treasurer on his settlement with the county

treasurer, and paid over to the commissioner of charities from time to time as the council may direct .

§ 81-a The city council shall have power to negotiate make and execute, or cause to be executed in the name, and on behalf of the city of Niagara Falls, a contract or contracts with the New York Central Railroad Company, the Erie Railroad Company and with such other persons or corporations as to the said city council shall seem advisable for the construction and maintenance of a new crossing, and approaches thereto, over or under the tracks and rights of way of the New York Central Railroad Company and the Erie Railroad Company, but not at grade, on and along Main street, as it now exists, or as it may hereafter be relocated, between Niagara and Bellevue avenues in the said city; and for the acquisition of any real property or rights therein which may be necessary for such purposes, or any of them, and for the payment by the said city of such proportion of the cost of such construction and maintenance as may be agreed upon between the parties to the said contract or contracts, and to issue the bonds of said city for its portion of the cost as fixed and determined by said contract or contracts. The city council shall have power to acquire by purchase such real property or rights therein as shall be necessary for such purposes, or any of them, and to agree with the owner or owners of the adjoining real property which may be damaged by the construction and maintenance of said crossing and approaches thereto, upon the amount of such damage, and in case an agreement cannot be reached as to the purchase price of such property or amount of such damages, then said city council may institute for, and on behalf of the city of Niagara Falls, proceedings under the general condemnation law of this state for the acquisition of such property and the determination and payment of such damages. All parties to such contract or contracts shall be entitled to notice of all proceedings had for the acquisition of such property and the determination of such damages provided for herein, and the city council shall have power to issue the bonds of said city for its proportion of such cost, expense and damages. The powers conferred by this section may be

exercised without a submission to a vote of the resident taxpayers of the city.

("As amended by Laws N. Y. 1923, Chapter 168—Effective April 9, 1923.")

§ 81-a. Whenever the city manager, the city engineer and the superintendent of public service shall certify in writing to the city council that any building or structure within the city has collapsed or has become so dilapidated and unsound from any cause whatsoever, that it is liable to fall and injure persons or property in the public streets or highways adjacent thereto, or that it interferes with the use of said streets or highways by reason of its dangerous condition, the city council shall have the power to cause such building or structure, or the portion or parts thereof which are liable to fall and cause injury, to be torn down or otherwise destroyed.

("As amended by Laws N. Y. 1923, Chapter 756—Effective May 24, 1923").

§ 81-b. In the event the city cuncil determines to widen Main street between Pierce avenue and Chasm avenue, it shall have the power to acquire by purchase or by condemnation such real property or rights therein, as it shall deem is required for such purpose and to agree with the owner or owners of the real property abutting on said street, which may be damaged by such widening, upon the amount of such damage and in case an agreement cannot be reached in respect of the purchase price of said property or the amount of said damages, the city council may institute, in behalf of the city of Niagara Falls, proceedings under the condemnation law of the state of New York to acquire such property and to determine the amount of damages.

("As amended by Laws N. Y. 1923, Chapter 167—Effective April 9, 1923").

§ 81-c. The city council shall also have power to negotiate, make and execute, in the name and on behalf of the city of Niagara Falls, a contract or contracts with the owners of the property abutting on Main street between Pierce avenue and Chasm avenue for the moving, demolition or cutting off of any building located upon lands fronting upon said Main street, by the terms of which the parties may agree that

the city may enter into contracts for the performance of such work and agreeing upon the sums, if any, which shall be paid to such owners on account of such widening of Main street, or anything done in connection therewith, and the council is hereby authorized to contract for such moving, demolition or cutting off of such buildings and to issue certificates of indebtedness of said city for the purpose of providing funds to pay the cost thereof. Certificates of indebtedness so issued shall be payable out of moneys collected on account of the local assessments assessed to pay the cost of such widening of Main street. The city shall have the power to assess the cost of said improvement upon the property deemed by it to be specially benefited thereby, and the cost of such improvement shall include any and all sums which may be paid by the city in carrying out any contract or contracts authorized to be made and executed by this or the preceding section, or in payment of any damages paid any owner on account of such widening of Main street or sums paid for lands taken in excess of that required for the actual widening of Main street. The assessment of the cost of such improvement and the collection thereof shall be made in the manner prescribed in this act in relation to the assessment and collection of the cost of improvements required to be assessed upon the property specially benefited. Nothing contained in this or in the preceding section shall be deemed to limit any right now possessed by the city in respect of the opening, laying out or altering any street or in assessing the cost thereof against the property deemed to be benefited thereby. Whenever the city shall sell any of the land or property acquired by it in connection with such widening of Main street, the proceeds of such sale shall be applied to the payment of the cost of such widening, or if such sale is made after the cost thereof shall have been assessed against the property deemed to be specially benefited thereby, the same shall be credited to the assessment so made in such proportion as the cost thereof was originally assessed.

("As amended by Laws N. Y. 1923, Chapter 167—Effective April 9, 1923").

§ 81-d. The city council of said city shall have power to

fix and alter the ward lines of the wards in said city from time to time as it deems advisable, but not so as to increase the number of wards in said city or to increase the representation of the wards of said city upon the board of supervisors of the county of Niagara.

("As amended by Laws N. Y. 1928, Chapter 174—Effective February 29, 1928").

ARTICLE V.

DEPARTMENT OF FINANCE; CITY AUDITOR; CITY TREASURER; BONDS, ET CETERA; BIDS; TAX BUDGET.

Section 82. Duties of city auditor.
83. Funds and warrants.
84. Forms, presentation and approval of claims.
85. Payrolls.
86. Auditor to keep account of expenditures, and orders and warrants drawn, reports.
87. Publication of financial condition.
88. Bond of city treasurer to city.
89. Bond of city treasurer to county.
90. Powers and duties of city treasurer, deposits, withdrawals.
91. Banks to furnish bond.
92. Payments from school fund.
93. How money drawn from depositories.
94. Treasurer to keep separate accounts.
95. Deposits to be in the name of city; report of bank.
96. Report of city treasurer.
97. Sinking fund.
98. General fund, transfers.
99. Tax searches.
100. Fees to be paid into treasury.
101. County assessment roll.
102. Additional duties of city treasurer.
103. Deputy city treasurer.
104. Tax budegt.
105. Officers, departments, et cetera, to be governed by estimate.
106. Council may borrow amount of unpaid taxes.

107. Surplus.
108. Members of council liable for voting for prohibited debt.
109. Local improvements.
110. Paving warrants and certificates of indebtedness; execution.
111. Sale of bonds, et cetera, to be approved by council.
112. Bonds; execution; interest.
113. Bids.
114. City manager may reject bids.
115. Contracts to be based upon estimate.
116. Opening of bids.
117. Sale of certificates of indebtedness for street improvement fund.

§ 82. **City Auditor.** It shall be the duty of the city auditor to audit all bills, accounts and vouchers of the various departments, offices and bureaus of said city; to discharge such other duties as may be imposed upon him by the city manager or city council in respect thereto and to report to the city council or the city manager from time to time in respect thereto as directed.

("As superseded by Local Law No. 2, 1926, April 26, 1926.")

§ 83. The city auditor shall keep a separate account with each department and bureau for which funds are appropriated. He shall require all orders, drafts and warrants for the payment of any claim against the city to state particularly against which of said funds the same are drawn and shall not permit any of such funds to be overdrawn, nor permit moneys to be drawn from one fund to pay claims properly payable from another. He shall prescribe the forms of all estimates, pay-rolls, warrants and other obligations which are payable by the city.

§ 84. All claims and demands of every name and nature against said city or any department thereof except the board of education and the board of library trustees and claims payable from school and library money shall be made in form and manner to be prescribed by the city auditor. All such claims and demands against said city shall be made out

by items and in detail showing fully the quantity and prices charged and by whom each item shall have been ordered. All such claims and demands against the city shall be filed with the city auditor who shall forthwith refer the same to the officer with whom or department or bureau in which the claim originated for examination, unless such claim shall be for damages arising from an alleged tortious act, in which case such claim or demand shall be referred forthwith by the city auditor to the corporation counsel. Before any further action shall be had upon any such claim, the officer, bureau or department to which the same shall be referred shall examine such claim and approve or disapprove the same in whole or in part and shall promptly return such claim to the city manager with such written memoranda of the reason for such disposition thereof as may be proper. The city manager shall upon examination forthwith return the same to the city auditor with such recommendations as he deems proper. Upon the return of such claim to the city auditor he shall examine further as to the correctness of said account or demand, the computation thereof, the condition of the fund from which the account or demand is made payable, and such other matters in respect thereto as may be material. Within ten days after the return of any such claim or demand from the officer, bureau or department in which it originated or to which it was referred, the city auditor shall report said claim, when approved by him, to the council, recommending the payment thereof, and he shall also, from time to time, report to the council all payments necessary for the principal and interest of any bonded debt or temporary loan, recommending the payment thereof. The city auditor shall also, within like period, report to the city council all claims which have been presented and disapproved, either by himself or the officer, bureau or department to which the same were referred by him, or by the city manager, with the reason for such disapproval. He shall cause to be mailed to each member of the council at least twenty-four hours before any action on any such claim by said council an abstract of his said report, showing the name of the claimant and the amount and nature of the claim to be presented to the council for action, and whether and by whom such claim is approved

or disapproved. After receipt of such report the council may order the payment of any claim or item included therein and may direct that warrants be drawn upon the city treasurer in payment thereof. The council shall finally act upon any such claim so presented to it within two weeks after presentation of the report of the city clerk. No action or proceeding shall be taken in any court to enforce any claim until forty days have elapsed after the filing thereof with the city auditor. Any person presenting for payment a claim against the city or any board thereof shall use his own name or the name of the firm of which he is a member. If any person shall use a name other than his own or that of the firm of which he is a member, he shall be guilty of a misdemeanor, and any member of any board or any officer of the city who shall knowingly approve, audit or pay any such claim shall be guilty of a like offense.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917")

§ 85. The city auditor shall prepare payrolls for city officers not otherwise provided for. Payrolls of all subordinates, officers and employees in the city departments or bureaus shall be prepared by the heads of the bureaus or departments in which they are respectively employed, and the same shall, upon completion, be submitted to the city manager for his approval and upon approval by him, the same shall be filed with the city auditor. Payrolls prepared, as aforesaid, shall be approved in writing by the city manager. Upon the approval of any such payroll in writing, as above directed, the city auditor shall issue a warrant on the city treasurer, signed by the city auditor directing the city treasurer to pay the persons named in such payrolls the amount set opposite their respective names.

The clerk of the board of education and the clerk of the board of library trustees shall prepare payrolls for all the teachers and employees in the department of education and the public library and present the same to the respective boards for approval, and upon approval by said boards said clerks shall each attach thereto a warrant on the treasurer, signed by the clerk and president of said boards directing him to pay the persons named in the payroll the amount set

opposite their respective names. Upon delivery of any such payrolls to the city treasurer he shall proceed to pay the persons named therein by checks, or in cash, the amount set opposite their respective names, and shall require each person so paid to receipt therefor by signing his or her name upon such payroll opposite the amount so received.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

§ 86. The city auditor shall keep a correct account of all expenditures of the city and of all warrants and orders drawn upon the city treasurer; his accounts shall be kept in such book or books and in such manner as the city council shall direct; he shall report to the city council at least once each month, the aggregate amount of the orders, warrants and drafts drawn on such fund and the amount of money appropriated and expenditures authorized from each fund which remains unpaid and outstanding during the current fiscal year, except as to the local improvement fund, and he shall report as to such local improvement fund and the orders, warrants and drafts drawn thereon when directed by the city council so to do. Such reports shall show the condition of the several funds, as the same appear on the date of his report, and shall be verified by the affidavits of the city auditor. Such report shall be published in the official paper of said city as part of the proceedings of the meeting of the city council at which the report was presented. The city auditor shall recommend to the city council the making of transfers of all moneys.

("As superseded by Local Law No. 2, 1926, April 26, 1926.")

§ 87. The city council shall on or before the twentieth day of January in each year cause to be published in book or pamphlet form a full and correct statement of the financial condition of the city on the first day of said month, showing the amount of receipts and expenditures of the city for the preceding year, the sources from which the funds have been derived and the purposes for which they have been expended. Such statement shall also show in detail the several funds belonging to the city; the amount drawn on each fund and its condition as on said January first. It shall also show the

several funded debts of the city and the purposes thereof, when the same are due and the rate of interest on each. Such printed publication shall be available for general distribution and a copy thereof duly verified by the city clerk and city treasurer shall be filed in the office of the state comptroller.

§ 88. The city treasurer shall before entering upon the duties of his office, enter into a bond in a penal sum to be fixed by the city council, not less than one hundred thousand dollars, which bond upon approval, shall be immediately filed in the office of the clerk of Niagara county, New York, who shall place the same on record as required in the case of bonds of town collectors. Said bonds shall thereupon be a lien upon the real estate of said city treasurer and his sureties, in the county of Niagara, and shall continue so until the conditions together with all costs and charges accruing from the prosecution thereof shall be satisfied and fully discharged. Said bond shall be approved as herein-before provided, as to conditions and sufficiency, and by the corporation counsel as to form.

The city council may at any time on written notice to the city treasurer require him, within a time therein stated, to give a further and additional bond in such sum and containing such conditions as the council shall deem advisable, which bond shall be subject to approval and shall be filed as above provided.

§ 89. Before any warrants for the collection of taxes that shall be issued by the board of supervisors of the county of Niagara shall be delivered to the city treasurer, he shall execute an additional bond to the county of Niagara with sureties to be approved by the supervisors of the city of Niagara Falls, or a majority of them, in a penalty equal to the amount of said taxes directed to be collected by said warant, conditioned that he shall faithfully collect such taxes, and pay over the same according to law; which bond the said supervisors of said city, within six days after the same shall be approved by them, shall cause to be delivered to the clerk of the county of Niagara, with their approval indorsed thereon. And upon the giving of such bond, he shall be empowered to collect the county taxes in said city, and deposit the same as in the case of city taxes, or as the board of supervisors of said county may direct, and he shall pay the same over as pro-

Section 1. Section eighty-nine of chapter five hundred and thirty of the laws of the State of New York of nineteen hundred and sixteen, entitled "An act to provide a charter for the City of Niagara Falls" is hereby amended to read as follows:

Section 89. Before any warrants for the collection of taxes that shall be issued by the board of supervisors of the county of Niagara shall be delivered to the city treasurer, he shall execute an additional bond to the county of Niagara with sureties to be approved by the supervisors of the City of Niagara Falls, or a majority of them, **in the amount of one hundred thousand dollars** (in a penalty equal to the amount of said taxes directed to be collected by said warrant), conditioned that he shall faithfully collect such taxes, and pay over the same according to law; which bond the said supervisors of said city, within six days after the same shall be approved by them, shall cause to be delivered to the clerk of the county of Niagara, with their approval indorsed thereon. And upon the giving of such bond, he shall be empowered to collect the county taxes in said city, and deposit the same as in the case of city taxes, or as the board of supervisors of said county may direct, and he shall pay the same over as provided by law. Such bond shall be delivered to the clerk of the county of Niagara and shall be duly recorded by him as in the case of bonds of collectors of towns, and shall thereupon become and be a lien upon the real estate of said treasurer, and of his sureties, in the county of Niagara in like manner and extent as in the case of collectors of towns; and such bond shall continue and hold good without renewal until the expiration of the time allowed for the collection of said taxes, or any extension thereof, as provided by law.

Section 2. This local law shall take effect immediately.

vided by law. Such bond shall be delivered to the clerk of the county of Niagara and shall be duly recorded by him as in the case of bonds of collectors of towns, and shall thereupon become and be a lien upon the real estate of said treasurer, and of his sureties, in the county of Niagara in like manner and extent as in the case of collectors of towns; and such bond shall continue and hold good without renewal until the expiration of the time allowed for the collection of said taxes, or any extension thereof, as provided by law.

§ 90. The city treasurer shall receive and have the care and custody of all moneys of the city and he shall pay them out as herein provided. He shall demand, collect and receive all claims and money due the city from every source. All moneys of the city received by him shall be deposited daily in such banks or trust companies as shall be designated by the city council. The interest on such deposits shall belong to the said city of Niagara Falls. All moneys drawn from the city treasury, excepting school and library moneys, shall be by warrants ordered drawn by the city council, except as otherwise provided in the charter or ordinances of said city, which warrants shall be signed by the city clerk and countersigned by the city manager and shall specify from what fund and for what purpose the amount therein mentioned shall be paid. Such warrants shall be numbered consecutively.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

§ 91. Banks or trust companies with whom city moneys are deposited shall first file with the city clerk indemnity bonds for the protection of the city against loss, in such an amount and in such form as shall be decided by the city council, or if the city council shall elect, such banks or trust companies may deposit with the city treasurer bonds, mortgages or other securities of the kind and to the amount approved by the city council in lieu of such surety bond to secure the city moneys or funds deposited with such banks or trust companies. A copy of the resolution of the city council authorizing the deposit of such bonds, mortgages or other securities by any such bank or trust company, duly authenticated by the mayor under the seal of the city and attested by the city clerk shall be filed with every such deposit

of said bonds, mortgages or securities with the city treasurer.

§ 92. Repealed by Laws New York 1917, Chapter 786—Effective June 8, 1917.

§ 93. No money shall be drawn from the city depositories except by check or draft signed by the city treasurer.

§ 94. The city treasurer shall keep a separate account or deposit with every department for which funds are especially raised by tax or for which funds are raised by assessments for local or other improvements, and every check or draft drawn by him shall particularly state against which of said funds such check is drawn. He shall at no time permit any fund to be overdrawn, or draw upon any fund to pay a claim chargeable to another fund.

§ 95. All moneys deposited by the city treasurer in any bank or trust company shall be deposited by him to the credit of the city. He shall keep bank books correctly showing the amount of his deposits and the moneys drawn from such banks and trust companies at all times. He shall file with the city auditor on the first day of each month a report showing the balance to the credit of the city on that day in the several banks and trust companies in which deposits are made. Every bank and trust company having deposits to the credit of the city shall file with the city auditor, under oath, on the first day of each month, a statement of the balance to the credit of the city with such bank or trust company on that date.

§96. The treasurer shall report by items to the city auditor at the end of each week's business, or oftener, if required, the moneys received by him. The treasurer shall, at the first meeting of the council in January, April, July and October in each year, submit a written or printed report showing the condition of the city finances, giving a summary of the receipts and expenditures of the city during such quarter, showing by what department, officer or body of the city the same were made, together with the conditon of the several funds of each department of the city upon the date of such report. And he shall at the first meeting of the council in each year, submit to said body a summary of the four quarterly statements showing the receipts and expenditures of the city for the year, and its financial condition; and at such

times include in his report the then existing debts and liabilities of the city in detail, and when and for what contracted, as well as the moneys in the treasury, and to what particular funds they belong and the sources from which these moneys shall have been received.

§ 97. The city treasurer shall have, under the direction of the city council, the custody and management of any sinking fund provided for the payment and redemption of city debts.

§ 98. The city treasurer shall keep in the account books in his office an account to be entered "general fund." All moneys received by him belonging to the city, except water rates, taxes for local improvements, taxes payable to the county treasurer, taxes raised by special tax elections, and moneys received from the sale of bonds issued for special purposes, which shall be placed by the treasurer in separate funds, shall be first placed in said general fund, and shall be transferred by the treasurer therefrom into the other funds created by this act, and such funds as may be hereafter lawfully created, as the council shall, from time to time, order and direct, but the council shall not order, nor shall the city treasurer make, any transfer to any other fund in any fiscal year in excess of the amount the council is herein authorized to expend in such year from such other fund, except as herein otherwise provided, and the city treasurer shall not be allowed or credited with any moneys transferred in violation of this section, provided, however, that any unexpended balance remaining in any fund created by or under this, or any other act relating to the city after the purpose for which such money was raised or appropriated has been completed or accomplished and fully paid for, may be transferred to said general fund, and thereafter transferred to any other fund, or appropriated for any city purpose authorized or contemplated by this act, except that any moneys raised or appropriated for school or library purposes shall only be used for such purposes.

§ 99. Upon request of any person therefor, the city treasurer shall make careful search of the books and records in his office for any upaid taxes or tax sales upon or against any piece or parcel of land in said city making a proper ab-

stract thereof, showing the year in which the item of unpaid taxes was levied or sale made, the amount of said item or sum for which the land was sold, the purchaser thereof, and the amount required at the date of such certificate to redeem the land from such tax sale where the time for redemption has not expired. He shall certify said abstract as such treasurer and shall charge and collect a fee of fifty cents for each parcel of land so searched against, to be paid by the party requesting such search, which fee shall be paid into the general fund of the city.

§ 100. The city treasurer shall pay into the treasury of the city all fees, percentages or interest moneys which he may receive for the use of moneys in his hands or otherwise.

§ 101. The board of supervisors of the county of Niagara shall cause a corrected assesment roll of the city of Niagara Falls to be delivered to the treasurer on or before the fifteenth day of December in each year with their warrant in due form of law attached thereto, demanding the said treasurer to receive and collect from the several persons and corporations named in said assessment roll the several sums mentioned in the last column of said roll opposite their respective names, and to pay over the same in the manner directed in said warrant. Said warrant shall direct said treasurer to pay over all moneys therein specified, on or befor the first day of February then next ensuing or such part thereof as has been received by him. Upon receiving such assessment roll and warrant, he shall give notice in the official paper of the city of the receipt by him of the same, and that all persons and corporations named therein are required to pay their taxes at his office on or before the first day of February next ensuing; also that for thirty days following the date of such notice, any person or corporation may pay his, her or its county or state taxes without any percentage or fees thereon; that after the expiration of said thirty days, three per centum shall be added to and collected by said treasurer upon all such taxes received or collected by him from the expiration of said thirty days, to and until the first day of February next ensuing. If any such tax shall remain unpaid on the first day of February after the delivery of the assessment roll and warrant, he shall thereupon cause a

written or printed notice to be given to every person resident within the city from whom such tax may be due, specifying the amount and percentage of the tax and requiring the same to be paid on or before the fifteenth day of February of the same year at his office. Such notice may be served personally or by leaving the same at the residence or place of business of the person notified, or by depositing in the post office in the said city properly folded and directed and the postage thereon prepaid, at least five days before the fifteenth day of February. For persons not residents in said city, a notice to them or to their registered agent deposited in the post office in said City of Niagara Falls, properly folded and directed to them at their reputed places of residence, with the postage thereupon prepaid, shall be sufficient. Such notice so served shall be deemed a full compliance with the statute requiring a collector of taxes to call at least once on a person taxed, or at his usual place of residence, and demand payment of the taxes charged him. But nothing herein contained shall be deemed to require such notice to be given unknown owners or non-residents of the city, whose residence or reputed place of residence is not known, and who have no registered agent residing in the city. On the fifteenth day of February, the fee additional to the tax then remaining unpaid shall be five per centum. In case any of the said taxes remain unpaid on the fifteenth day of March succeeding the delivery of the assessment roll and warrant to the treasurer, he shall deliver to the county treasurer an account of the taxes so remaining due, with a description of the property liable for the same as described in the assessment roll, and upon making oath before the county treasurer that the sums mentioned in the account remain unpaid and uncollected, and that he had not, on diligent inquiry, been able to discover any goods or chattels belonging to or in the possession of the person charged with or liable to pay such sums whereupon he could levy the same, the said treasurer shall be discharged from all liability for the amount thereof, and he shall be credited therewith by the county treasurer.

("As amended by Laws N. Y. 1922, Chapter 515—Effective April 6, 1922, and superseded by Local Law No. 10—Effective June 14, 1926.")

§ 102. The treasurer shall perform such other duties not inconsistent with the provisions of this act, or the laws of the state, as may be prescribed from time to time by the city manager or by resolution or ordinance of the council.

§ 103. The deputy city treasurer shall, during the temporary absence or inability of the treasurer, or during his suspension or a temporary vacancy in his office, discharge the duties of the treasurer.

§ 104. Upon receipt of the estimate of the expenditures and revenues of the city for the ensuing year from the city manager the city council shall proceed to consider the same and shall fix a date for hearing any taxpayer who wishes to be heard in reference thereto, notice of which hearing shall be published once in the official paper of the city six days before such hearing, and after such hearing the city council may adopt such estimate or may diminish, increase or reject any item therein contained except said items as relate to the city debt, and must adopt the estimate thus amended on or before August first of each year. The estimate as adopted shall be entered at large in the minutes of the council and published in its proceedings and the several sums in the final estimate so adopted shall be and become appropriated for the several departments, bureaus, and offices of the city for the purposes named in the estimate for the ensuing fiscal year. The city council shall also estimate the probable revenues other than the general city taxes of said city available for the purposes named in said estimate other than the amounts thereof which have been otherwise appropriated under the provisions of this act and direct that the same may be credited to such of said several funds as it deems proper. The several balances in the estimate of expenses of the city after such deduction shall be made shall be known as the tax budget and the several amounts therein named shall be levied, assessed and laid by tax upon the real and personal property liable to taxation in the city, at such time and in such manner as provided by law.

Upon receipt of the estimate of the board of education the city council shall proceed to consider the same and if they approve it they shall sign it and immediately file the same with the city clerk; if within twenty days after it is

received they do not approve it, reject it or diminish any item therein contained the same shall be considered as approved by the council. Such annual estimate so approved or adopted shall be filed with the City Clerk, and the city council shall include the amounts so certified in the school tax and assessment roll and such amount shall be collected by the city treasurer and credited to the school fund.

("As amended by Laws of New York 1922, Chapter 515—as superseded by Local Law No. 10, 1926, June 14, 1926").

§ 105. The several officers, boards, bureaus and departments of said city shall be governed by the estimate and appropriation aforesaid and shall not incur any debts, expenditures or liabilities in excess or independent of the several sums respectively allotted to them. It shall not be lawful for the city or any officer, bureau, board or department thereof to expend or contract to be expended, or to incur any liability for the current fiscal year in a sum greater than is so estimated for such office, board, bureau or department and so provided for by the city council in the tax levy of such year as aforesaid, but this shall not be held to prohibit the health officer of the city, under the direction of the city manager, from expending such sum or incurring such debts beyond the amount estimated and provided for the bureau of health of said city as may be actually necessary to prevent the spread of or to suppress any contagious or infectious disease or any epidemic in said city. No officer, board, bureau or department of said city shall incur any expense or liability, which after taking into account the expenditures and liabilities made or incurred shall be in excess of said estimate allowed therefor by the city council as aforesaid, except for the making of public improvements for which bonds or paving warrants are authorized to be issued to provide for the payment thereof. Any contract, verbal or written, made in violation of this provision shall be null and void as to the city. Any officer of the city making or voting for any contract, appropriation or expenditure, or auditing any account or claim prohibited by this section shall be guilty of a misdemeanor and on conviction punished by a fine or imprisonment or both in the discretion of the court before which conviction shall be made.

§ 106. The city council in any year may borrow the

amount of unpaid taxes within the estimate of such year and issue certificates of indebtedness of the city therefor signed by the mayor, attested by the city clerk and countersigned by the city treasurer; which certificate shall be payable out of the next annual tax levy and not otherwise. In case of an unforseen emergency arising in any office, bureau or department after the making up of the budget requiring an expenditure of money for which no provision is otherwise made, the city council may, upon recommendation of the city manager make an estimate of the amount of moneys necessary for such emergency, and may issue and sell the certificates of indebtedness of the city in the manner and form provided in this section bearing interest not exceeding five per centum per annum, which certificates shall be made payable out of the next annual tax levy, and the amount thereof shall be included and raised in the next annual tax budget.

§ 107. Any money or revenue received by the city from any source over and above the estimates adopted by the city council for any fiscal year may be credited to any city fund and used for any lawful purpose by the city council.

§ 108. Any member of the city council wilfully voting to authorize any expenditure or appropriation or contract any debt prohibited by the provisions of this act shall be personally liable to each and every person entitled to payment and the city of Niagara Falls, New York, shall not be liable to pay the same.

§ 109. Nothing herein contained shall prohibit the raising of any sum for local improvements authorized by this act when the same shall be rated and assessed ratably according to the provisions of this act nor the issuing of certificates of indebtedness in cases where the local improvements may be made payable in installments, nor to cases where the power is expressly conferred to do an act whereby a debt or liability against the city is created prior to the raising of the money by a tax levy.

§ 110. All paving warrants and certificates of indebtedness shall be executed in the same manner and by the same officers as provided in this act for the execution of bonds, and all bonds, paving warrants and certificates of indebtedness issued pursuant to the provisions of this act or any

general law of the state of New York shall be retained by the city treasurer when countersigned by him. He shall keep and have the same in his custody continually until negotiated and sold as directed by the city council.

§ 111. No sale of any bonds, certificates of indebtedness or paving warrants shall be made without the approval of the city council. Every such bond, warrant or certificate of indebtedness when delivered to the city treasurer shall be and then become an obligation against the said city of Niagara Falls for principal and interest.

§112. The bonds of said city by any of the provisions of this act authorized to be issued, shall bear interest not exceeding five per centum per annum, and shall be sold at not less than par, and shall be of such denomination, and payable, principal and interest, at such place or places, and at such time or times as the council shall determine, subject to the other provisions therein contained. Such bonds shall be signed by the mayor, attested by the city clerk, and the seal of the city, and shall be countersigned by the treasurer, and the said clerk and the treasurer shall each keep in a book to be provided for that purpose a record of the number, denominations, rate of interest, date and maturity of every bond attested and countersigned by them, and a like record of every bond negotiated and delivered, with the name of the purchaser and the amount realized therefor. Said council shall also have the power to issue the bond or bonds of said city, executed by the said officers, at a rate of interest not exceeding five per centum, per annum, to be sold at not less than par, payable, principal and interest, at such place or places, and at such time or times, as it shall determine, for the payment of the principal sum secured to be paid by any bond or bonds of said city heretofore issued, or for the payment of the principal sum secured to be paid by any bond heretofore issued by the village of Suspension Bridge or the village of Niagara Falls or by the water board or sewer board of either of said villages, or by the board of education of either school district number two or seven of the town of Niagara now outstanding, or that may hereafter be issued to take the place of any such bonds, or in renewal thereof, as the same may become due.

§ 113. Every bid for bonds, paving warrants, certificates of indebtedness or upon any contract for work for said city, shall be accompanied by a certified check of the bidder on a solvent banking corporation, payable to the order of the city manager, in such amount as the city council shall specify. On acceptance of any such bid the checks of the unaccepted bidders shall be returned to them forthwith, and upon the execution of the sale or contract the check of the accepted bidder shall be returned to him. All persons entering into contracts with the city where the same shall involve expenditures in excess of two hundred and fifty dollars, shall make such deposit or furnish such bond as security for the faithful performance of their contract as shall be required by the city council, which bond shall be approved by the corporation counsel as to form and by the city manager as to sufficiency.

("As superseded by Local Law No. 2, April 26, 1926").

§ 114. The city manager, under direction of the city council, may in all cases reject any and all bids if the lowest bid shall be deemed by the city council or city manager excessive or otherwise objectionable. Public notice calling for bids must describe the bonds, paving warrants or certificates of indebtedness to be sold, or work or material to be done or furnished and for which contracts will be let, the time and place of the meeting at which such bids will be received. Specifications for any public improvement must be prepared and set forth in such detail as will adequately inform all persons proposing to bid of the nature of the work to be done, material to be supplied and the same shall be printed and copies delivered to all the applicants therefor. When an improvement shall be contracted for the expense of which is to be assessed either in whole or in part upon the property benefiting thereby, except in case of paving, the city council shall first approve the same and such approval shall be certified by the city clerk to the city assessor who shall thereupon proceed to apportion the cost of such improvement and to make up an assessment roll therefor as provided by this act.

§ 115. Every contract for public improvement within the city shall be based upon estimates of the whole cost of such improvement furnished by the proper officer, board, bureau or department having charge of the improvement, approved

by the city manager. No such contract shall be let except after the receipt of bids and no bids shall be received at any other time than at the meeting at which it was advertised bids will be received, and unless they conform to the provisions of this act, the resolutions and ordinances of the city council and the requirements of the statutes of the state. All bids must be in addition endorsed with the title of the work to which they relate, the name of the bidder, his residence and post-office address.

§ 116. After bids have been presented but not until half an hour after the time stated in the public notice for holding the meeting, all bids shall be opened by the city manager in the presence of the bidders who may elect to be present and in the presence of the head of the department or bureau interested in the matter covered by the said bid, and an abstract of all bids received with the prices and security offered shall be immediately copied in a book kept for that purpose without any change, corrections or additions whatsoever. All meetings at which bids are received shall be public. The bids shall thereupon be reported by the city manager to the city council with his recommendation for further action unless he shall be previously authorized in his discretion to reject all bids in which case he may reject all bids and report his action to the council. The council upon receiving the report of the city manager may reject the bid or direct the same to be accepted, and in case of rejection may direct new bids to be advertised for. No bid shall be accepted from nor contract awarded to any person who is in default to the city upon any debt, contract or obligation. Neither the principal nor sureties upon any bid or bond shall have the right to withdraw or cancel the same until the contract for which such bid is made or relating to which said bond is given shall have been let and such contract duly completed.

§ 117. If at any time there shall not be sufficient money in the street improvement fund to pay the cost of intersection on streets proposed to be paved, the city may issue and sell certificates of indebtedness in accordance with the terms and provisions of this act bearing interest at a rate not exceeding five per centum per annum to an amount not exceeding ten thousand dollars in any fiscal year, payable in ten years. The

proceeds of said sale shall be placed by the city treasurer in the street improvement fund.

ARTICLE VI.

DEPARTMENT OF PUBLIC SERVICE; OPERATION OF WATER WORKS PLANT; STREETS; SEWERS.

Section 118. Duties and powers of superintendent of public service.
119. Power to change grades of streets, ways and sidewalks.
120. Power to require permanent sidewalks to be laid.
121. Superintendent may require repairs to sidewalks.
122. Superintendent may close dangerous places and streets.
123. Council require sewer, water and gas connections to be made.
124. Collection of garbage, et cetera.
125. Public improvements; tax elections.
126. Discontinuance of streets.
127. Opening and laying out of new streets.
128. City may acquire land for streets.
129. City may take land for overhead or underground crossings.
130. City to pay for cleaning and repairing of streets.
131. City may acquire land for sewer purposes.
132. Proceedings upon condemnation.
133. Duties of deputy superintendent of public service.

§ 118. Pursuant to the provisions of this act and under direction of the city manager the superintendent of public service shall be the head of the department of public service and have direction and control of the employees of said department. He shall have cognizance, direction and control of such matters relating to the streets, alleys, ways, sidewalks, bridges and other public places belonging to said city, except school and public library buildings and the sewers and drains and parks of said city, as may from time to time be assigned to him by the city manager, and he shall, under such direc-

tion, have the management and control of the collection and disposition of the city garbage, ashes and refuse.

The superintendent of public service shall cause the clerk in the office of the department of public service to keep the custody and control of all reports of foremen, inspectors and employees in said department made by them to said superintendent of public service or their superior in said department, including any time and labor slips showing labor and time therefor performed by any person in said department and the nature of such labor, and also including the record of any materials used for any purpose and all memoranda of expenses or disbursements for any purpose, and including any record, report or proceeding required by the city manager or the city council to be kept by said superintendent of public service, and such record shall be deemed a public record of said city.

Under the direction of the city manager, the superintendent of public service shall also have direction, control and management of the operation of the water works plant of said city including water mains, pipes, pipe lines, machinery and apparatus connected therewith and appurtenant thereto, as well as the management of the operating of any power plant or any portion of said water works plant and system, the putting in of water meters, the making of water connections for consumers and the carrying out and enforcement of all things necessary and proper in and about the general management, control and maintenance of said water works plant and system of said city, and he shall report from time to time to the city manager as regards the same and he shall perform such other duties as the city manager shall from time to time direct, or the city council by ordinance prescribe.

(Enacted as Local Law No. 1, 1929, effective August 5, 1929.)

§ 119. The city council may establish, change or modify the grade of any street, way, alley or sidewalk of said city, but before doing so it shall cause a profile thereof to be prepared and filed in the office of the city engineer, and shall cause notice to be given the owners of property to be affected thereby by publishing the same once in its official proceedings and by causing copies of such notice to be mailed to each

owner, postage prepaid, addressed to the last address of said owner known to the city clerk, at least five days before the time fixed for a hearing thereon, stating fully the purpose of said hearing and the time and place therefor.

§ 120. Under the direction of the city manager, the superintendent of public service shall have power to require permanent sidewalks to be laid or constructed, made, paved, flagged, curbed, guttered, relaid, changed or amended, on any street or portion of street in said city of such width as the city council may direct, and also all sidewalks to be kept free from ice and snow by the owners of the land adjoining such sidewalk or proposed sidewalk and also to require any curb or gutter to be constructed, repaired, relaid or reset by the owners of the premises contiguous to such curb or gutter, and require any such improvement, act or thing to be done in such manner and at such time and of such material as it may prescribe and direct, provided, however, that the city shall not authorize or permit any board or wooden sidewalk to be laid or constructed in the city. Said superintendent shall give written notice to such land owner or owners for the doing of and of the things aforesaid by mail addressed to the owner at his address last known to the superintendent, postage prepaid, and if such owner shall fail to comply with said notice within ten days, excepting in the case of repairs to sidewalks, the time limit shall be two days after the giving of the same as aforesaid, said superintendent shall report such default to the city manager who shall cause such improvement, act or thing to be made or done by contract let to the lowest responsible bidder, or at an expense not exceeding the regular price of labor and materials for such purpose, and the officer so performing such work shall keep an accurate itemized account of the expenses incurred for all labor and materials furnished in and about such construction or rebuilding and make affidavit to the correctness thereof and file the same with the city clerk, who shall report the same to the council for approval; the city clerk shall enter that fact in the minutes of its proceedings, specifying the amount and the person or persons for whom said work was done; and the property to be charged therewith, and stating that at the next regular meeting of the council, specifying

the date the council will consider and act upon said account, and that any and all persons interested therein will then be heard by the council as to its approval of the same; and the publication of such notice in the official paper in and as a part of the proceedings of the council shall be full and sufficient notice of the facts therein stated to all parties assessed or interested. If the council approves of such expenditure, the same shall henceforth become and be a lien on said lot or parcel of land in front of which said work shall be done and bear interest at the rate of twelve per centum per annum and shall be, by the city clerk, entered in a book for that purpose, and if not previously paid together with the interest thereon accrued up to the time of the completion of the next following general city tax-roll, be placed and assessed on said tax-roll against the said lot or parcel of land and be added to the general city tax therein upon said lot and parcel of land and thereafter be and in all things taken, regarded and described in all proceedings as general city tax and shall be collected in the same manner with the same percentages, interest, power and effect, as other general city taxes. The location of any such sidewalk may be changed and such sidewalk removed thereto and the cost of such removal charged and assessed on the lot or parcel of land in front of which the same may be. No error or mistake in the name of any owner or occupant upon whom notice was served nor the fact that same was served upon some person other than the real owner or occupant, shall invalidate the proceedings in case such service was made in good faith upon the apparent occupant, user or owner, or upon a person of mature years in or upon the said lot or parcel of land.

§ 121. In case any sidewalk shall be reported to the superintendent of public service as unsafe and liable to result in personal injury to any persons or thing walking over the same, he may give two days' written notice to the owner to repair, which notice shall be in writing and shall be left with the occupant of the premises if the same be occupied, and if not shall be mailed to the owner thereof, postage prepaid, at his last post office address known to the said superintendent and which notice shall require the said owner to repair the same. If said owner shall not make repairs within two days

the superintendent of public service, under the direction of the city manager, may proceed to make said repairs in the same manner and the cost thereof shall be assessed and collected in the same manner as provided by the provisions of this act relating to the construction of sidewalks in the city, and the superintendent of public service may, upon receiving notice of such dangerous condition of said sidewalk, if in his judgment he deems that the emergency demands it, proceed to rope off or close such sidewalk against public use until said repairs are completed.

§ 122. Whenever in the opinion of the superintendent of public service any street or public place shall be in a dangerous condition he may declare said street closed to public travel for such time as the danger may remain and shall report the same to the city council at its next meeting, and may barricade said street, erecting signs thereon "street closed, danger," and after such barricading and placing of such signs the city of Niagara Falls shall not be liable for any injuries which may happen to any person or property within the limits of the street so closed.

§ 123. The city council at any time on recommendation of the city manager before proceeding to pave or repave any street shall direct the city manager to serve notice by mail on the owners of property fronting on such street, addressed to their proper address respectively, postage prepaid, directing the owner of each parcel of land within thirty days therefrom to cause connections to be made with sewers, drains and water pipes in front of such owner's lot at such distance and with such material as it prescribes to be made and extended to the curb line under the supervision of the city engineer and subject to his approval. If such owner or owners fail to comply with said notice the city manager may cause such connections to be made and expense thereof in front of each lot shall be assessed upon and against such lot or parcel of land in front of which such connections were made as herein provided. After such connections have been completed and the cost thereof determined by the city engineer and confirmed by the city council a statement of said cost and expense shall be delivered to the city assessor who shall levy and assess the same upon and against the parcel of land in front of which said connections were made, and the same with

interest at the rate of six per centum per annum thereon, shall be collected as provided by sections two hundred and eleven and two hundred and twelve of this act. The cost and expense of making such connections shall be payable out of such assessment when collected and not otherwise. When the assessment of said lots therefor has been in the hands of the city treasurer for collection for forty days the city council shall cause to be issued and delivered to the contractor or contractors who made such connections, negotiable warrants on the city treasurer for the amounts of such assessments remaining unpaid, bearing interest at the rate of six per centum per annum and payable out of said assessments when collected and shall impose no obligation on the part of the city other than to collect and pay over such moneys from said assessments. The interest on said warrants shall be payable semi-annually and the city council may pay such interest as it becomes due from the general fund pending the collection of such assessments. Upon the assessments being paid it shall be the duty of the city council to transfer from such local assessment fund to the general fund the amount of interest paid on said warrants as aforesaid.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

§ 124. The city council shall determine from time to time the manner of collecting street sweepings, ashes, garbage and refuse of the city. The expense and disposition of the same shall be paid by the city and shall be assessed and levied as a part of the general taxes of the city.

§ 125. If any statement relating to the public improvements made to the city council by the city manager shall relate to any subject other than sewers, water mains or pipes, bridges over Gill Creek, street improvements, including repaving and remacadamizing, lighting and cleaning of the streets, collection and disposal of sweepings, garbage, ashes and refuse, recommendation of any such statement of said city manager, if approved by the city council, shall be submitted to the vote of the resident taxpayers of said city at a special election called and noticed in the manner herein provided. In the notice for such special election shall be included a statement of the amount of money proposed to be

raised or that property is to be taken by condemnation, and for what particular purpose the same is to be expended or taken. If a majority of all the votes cast at such special election shall be in favor of raising the amount of money specified for the purpose stated in the notice of such election, or the intention to take property by condemnation, the council shall have the power to authorize the city manager forthwith, to proceed with such public works, and the city shall issue its bonds for such purpose in the manner and form herein provided.

("As ammended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

§ 126. When the city council shall contemplate the discontinuance of any street it shall publish a notice once a week for two successive weeks in the official paper of the city of its intention so to do, and that all persons may be heard in reference thereto at the time and place therein stated. If the council determines to discontinue such street and any person shall claim to be damaged by such discontinuance the damage of such person unless agreed upon between him and the city council, shall be ascertained and determined in the manner provided in the coundemnation law.

§127. When the city council contemplates the opening or laying out of a new street or the alteration of an existing one, it shall require the city manager to have a survey and description of the proposed street or alteration made of the property deemed to be benefited thereby and liable to assessment therefor, and to file the same with the city clerk. The city council shall then publish a notice once a week for two successive weeks in the official paper of the city describing the street to be opened or alterations to be made and the property deemed to be benefitted thereby liable to assessment therefor, naming a time and place at which all persons will be heard in reference to such opening or alterations, and after said hearing said council may decide to proceed with the opening of said street or said alterations and proceed accordingly.

The foregoing provisions of this section shall not apply to the alterations of streets, avenues or alleys by rounding the corners thereof for the purpose solely of increasing the safety

of traffic at the intersection of such streets, avenues and alleys where such alterations may be made and which said alterations shall be a charge upon the city at large and not payable by local assessment, in which case, whenever the city council contemplates the rounding of any such corners, it shall require the city manager to have a survey and description of the streets, alleys and avenues, the corners of which it is proposed to so alter, and to file the same with the city clerk to be by him presented to the city council for its approval.

("As superseded by Local Law No. 11, August 2, 1926.")

§ 128. The city council may acquire for the city land needed for the opening of a new street or for the alteration of a street by gift or purchase or by condemnation proceedings conducted under the condemnation law.

§ 129. The city is authorized to take and appropriate such lands in said city as may be necessary for the construction of overhead or underground crossings and approaches therefor over, under, upon or across the track of any steam railroad corporation within the said city, except that no land held or occupied for railroad uses or purposes shall be so taken and appropriated. Said city may also enter into contracts as its council may determine with railroad corporations providing for the construction of and the payment of the cost of any overhead or underground crossings. All proceedings for the taking of any lands or interest in lands for the purpose prescribed in this section shall be in conformity with the provisions of the condemnation law.

§ 130. All cleaning and repairing of streets, including the alteration of corners of streets, avenues and alleys for the purpose solely of increasing the safety of traffic at such corners, shall be done at the expense of the city, except when otherwise provided. When a street has once been established, graded, curbed and paved, or macadamized at the expense of the owners of property deemed to be benefited thereby, every expense thereafter of keeping the street between the curbs in repair and clean shall be borne wholly by the city, except that it shall be the duty of all railroad companies to cause that part of the streets throughout the city upon which their tracks are laid, lying between the outer rail of the tracks

and for two feet on either side thereof, to be kept in repair, under the direction of the city manager.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917; as Superseded by Local Law No. 11, 1926, August 2, 1926.")

§ 131. Said city shall have power to acquire by purchase or condemnation, lands, property and rights of way to be taken or had for the purpose of constructing or extending its system of sewers. Any proceeding for that purpose shall be conducted as nearly as may be in accordance with the provisions of the condemnation law.

§ 132. When the report of any commissioners appointed under this act shall have been confirmed, the city clerk shall make up a record of the proceedings, which record shall contain all the resolutions of the council in relation thereto, the order of the court appointing the commissioners, the oath and report of the commissioners and all the notices published in relation thereto, with the affidavits of publication. These papers shall be securely attached together, filed in the city clerk's office and recorded at length in the book of street records, and a duplicate copy thereof shall be filed and recorded in the office of the clerk of the county of Niagara. The papers so attached together and filed, or the record thereof in the book of street records, or a copy thereof, authenticated by the city clerk, under the city seal, shall be presumptive evidence in all courts and places of the facts therein contained.

§ 133. One of the deputy superintendents of public service, to be designated by the city manager, shall during the temporary absence or inability of the superintendent of public service, or during his suspension or a temporary vacancy in his office, discharge the duties of said superintendent.

ARTICLE VII.

BUREAU OF POLICE; BUREAU OF FIRE; BUREAU OF HEALTH.

Section 134. Powers and duties of superintendent of police.

POLICE.

135. Removal of superintendent of police; appointments to police force.
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140. Powers of police officers; special police fund.
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142. Trustees of pension fund.
143. Powers of trustees to retire or discharge officers.
144. Appointment of special policemen.

FIRE.

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HEALTH.

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183-a. Building Bureau created.
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183-d. City Electrician, duties of.
183-e. Plumbing Inspector, duties of.

§ 134. The superintendent of police shall be the head of the bureau of police of said city and under the direction of the city manager shall have immediate direction and control of the policemen, police officers and other subordinates and employees of said bureau; and shall have charge of the said bureau under the rules, regulations and ordinances of said city. He shall discharge all duties imposed upon the heads of police departments of cities by statute or imposed upon him by any ordinances of said city. He shall from time to time report to the city manager concerning the affairs of the bureau of police of said city as directed by said city manager or the city council and shall do all things necessary for the enforcement of law or the ordinances of said city, properly enforceable through the police bureau of said city.

§ 135. The city manager, with the approval of the city council, may at any time remove the superintendent of police without charges. The city manager may, with the approval of the city council, appoint one or more sergeants in his discretion, and such number of policemen, patrol wagon drivers and operators for the police signal system as in his judgment shall from time to time be necessary; provided, however, that

no appointment shall be so made which will increase the membership of the bureau of police to a number greater than the number of such members fixed by resolution of the city council. The sergeants shall be appointed from among the members of the force.

("As amended by Laws N. Y. 1919, Chapter 364—Effective May 3, 1919.")

§ 136. All appointments in or to the police force of said city shall be evidenced by a commission naming the appointees signed by the city manager and the same shall be immediately filed in the office of the city clerk of said city. Every person so appointed shall hold office until removed for cause, or causes herein specified, excepting the superintendent of police.

§ 137. Charges may be made by any person against any member of the police force for incompetency, neglect of duty, misconduct in office, conduct unbecoming a police officer. These charges must be in writing, verified by the person making the charge as a complaint in a court of record and filed with the city manager and a copy thereof must be served upon the accused officer. The city manager shall proceed to hear said charges in accordance with the rules of the bureau of police of said city so far as the same are applicable. Pending the aforesaid hearing the accused may be suspended from duty by the city manager for a period not exceeding ten days. The officer accused may be present in person or by counsel and evidence may be given in his defense. All trials shall be open to the public. If the officer accused is found guilty of the charge against him, the city manager may suspend him without pay for a definite time, impose on him a fine not exceeding fifty dollars or reduce his grade or dismiss him from the police force, or impose on him any other discipline not inconsistent with the statute. Decision shall be in writing and immediately filed with the city clerk.

§ 138. The city manager shall prepare rules and regulations for the direction of the police force, submit the same to the city council for approval and upon such approval enforce the same through the superintendent of police.

§ 139. Rewards to induce persons to give information leading to the detection, arrest or conviction of persons guilty of

crime or violation of the law shall be made by the city council and shall be audited and paid from the contingent fund to the person who shall have given such information upon the certificate of the superintendent of police that such person is properly entitled thereto.

§ 140. The superintendent of police, policemen or police officers shall severally possess all the common law and statutory powers of constables, but shall not serve civil process. They may arrest without process persons offending against the laws of this state or the ordinances of said city committed within their views; they may enter any building or place where any person in their hearing or presence commits a breach of the peace or a violation of any law or ordinance, or shall be guilty of disorderly conduct, and may arrest the offending person. Such person shall be arraigned before the police justice without unnecessary delay pending which the offender shall be retained at the police station. If the charge laid against the offender is a misdemeanor the officer in charge at police headquarters may admit the offender to bail in the same manner as might the police justice. Members of the police force shall discharge their duties as prescribed by the ordinance of the city and by statute; they shall have exclusive power of serving all criminal process issued by the police justice or acting police justice of said city, and it shall be their duty to do so. Members of the police force shall furnish their own uniforms, such uniforms to be prescribed by the council, and shall always wear the same on duty.

The actual and necessary expenses of any member of the force, when directed by the superintendent of police or the city manager, in serving or executing any process, or endeavoring to detect, discover or arrest the perpetrator of any crime against the laws of this state or ordinances of the city and their necessary traveling expenses in serving criminal process beyond the city limits or conveying convicts to a prison outside of said city, shall be paid by the city. For the purpose of providing for the expense above mentioned, and for a secret service fund, the council shall set apart in the city treasurer's hands a sum to be known as "the special police fund," not exceeding in the aggregate two thousand dollars in any one year, which fund shall be paid out under the direction of the

city manager by warrants drawn upon such fund, to be signed by him. An account of such expenses shall be made out in detail, and verified by the party making the same, to the effect that the sums therein charged have been actually and necessarily paid out by him, which the city clerk shall retain and file in his office.

§ 141. There shall be established in the city of Niagara Falls a policemen's relief and pension fund which shall consist of:

1. All securities, properties and moneys which were on December thirty-first, nineteen hundred and fifteen, in the possession of and under the control of the trustees of said fund, or which have since come or may hereafter come into possession of or under the control of the council and which in their opinion may be properly transferred to said policemen's relief and pension fund.

2. All fines, penalties and forfeitures that from time to time may be imposed upon any officer or member of the police department of said city by way of discipline, collectible from pay or salaries or otherwise.

3. Ten per centum of all rewards, gifts or emoluments that may be paid or given for extraordinary services rendered by any officer or member of said police department, including rewards for services offered by other police departments, except when allowed to be retained by such officer or member by the city manager.

4. All moneys realized, derived or received from the sale of condemned, unfit and unserviceable property belonging to or in the possession or under the control of the bureau of police, together with all moneys realized from the sale of unclaimed property of every kind, which shall come into the possession of the police justice or superintendent of police of said city, which said property shall be sold at public sale by said superintendent of police semi-annually.

5. All fees and moneys realized or received from the granting or issuing of permits to carry revolvers or other weapons which shall be issued by the superintendent of police, and he is hereby authorized to receive and collect for the issuing of each license the sum of one dollar.

6. All money realized, derived or received from the col-

lection of taxes levied against the owners of dogs in said city, and all fines or penalties as provided by the ordinances for the non-payment of any tax so levied and assessed.

§ 142. The mayor, councilmen, the city treasurer and the superintendent of police of said city, and their successors in office, are hereby constituted the board of trustees of the policemen's relief and pension fund and for this purpose shall be constituted a body corporate. The said board of trustees shall have the exclusive control, management and distribution of said fund. The mayor shall be the chairman and the city clerk shall be the secretary of said board of trustees. The city treasurer of the city of Niagara Falls shall be the treasurer of said board of trustees. Each of the officers shall serve without additional compensation. Said treasurer shall, from time to time as said board of trustees shall direct, give a bond in such sum, not less than double the amount of money and negotiable securities in his hands at any time, and upon such conditions as said board of trustees shall require. When this act takes effect the mayor shall call a meeting of the officers hereby designated to constitute such board of trustees for the purpose of carrying the provisions of this chapter into effect. The said board of trustees are hereby authorized to adopt rules and regulations for its government; and it shall hear and determine all applications for relief or pension under this chapter, and its decision shall be final and conclusive, and not subject to review or reversal except by said board of trustees. It shall cause to be kept a record of all its proceedings and meetings.

§ 143. 1. The said trustees shall have the power and authority, by a majority vote, to retire or discharge from all service in the police department, any officer or member thereof who may be found on examination by the surgeon of the department, duly certified under oath, disqualified physically or mentally for the performance of his duties in the department by reason of disease or disability caused or induced by the actual performance of the duties of his position without fault or misconduct on his part.

2. Every officer or member of said bureau who may have become permanently incapacitated from performing full duty as a policeman by reason of disease or disability caused or in-

duced by injury or by long service and exposure while in the line of his duty as policeman without fault or misconduct on his part, may on his own application be retired from service by a majority vote of such trustees provided the applicant has been examined by the surgeon of the department and his sworn certificate filed, showing that the applicant is permanently disqualified from performing the duties of a policeman.

3. A pension shall be granted and paid to each person so retired or discharged, from the policemen's relief and pension fund, equal to one-half the annual compensation allowed him as a salary at the date of his retirement from the service, or such less sum in proportion to the number of officers and members so retired, as the condition of the fund shall warrant. But no officer or member of said department shall be entitled to any allowance or pension under the provisions of this chapter, during the time he shall be receiving full salary from said police department.

4. The widow, minor child or children or dependent parent or parents of any deceased officer or member of said police bureau, provided the death of such officer or member occurs during his service in said police bureau, and is caused or induced by injury or by long service and exposure while in line of his duty without fault or misconduct on his part, or after he has retired on account of disability, or is discharged as hereinbefore provided by reason of his having become physically or mentally disqualified from performing his duty, shall be allowed and entitled to receive from said fund an allowance as a pension. The amount of such pension shall be determined upon the following conditions:

a. To widow of such officer or member, the sum of twenty-five dollars per month. But upon her remarriage such pension shall cease.

b. To each child of such officer or member, under the age of sixteen years, the sum of five dollars per month. Upon the child attaining the age of sixteen years such pension shall cease. In case the widow shall die or remarry then the pension allowed to her shall be paid to the child or children of such deceased officer or member who shall be under the age of sixteen years. But all such payments to any child shall cease when such child becomes sixteen years of age. The

whole amount paid to the widow and minor child or children of any officer or member shall not exceed one-half the annual compensation allowed such officer or member, at the date of his death or retirement.

c. To the dependent parent or parents of such officer or member of said police bureau the sum of twenty-five dollars per month. No pension shall be paid to a dependent parent or parents in case the officer or member of said police bureau so dying shall leave him surviving a widow or minor child or children. No more than one pension shall paid in case both parents survive.

5. Said board of trustees shall pay the pension as allowed and fixed by this chapter from said relief and pension fund and said board of trustees may in its discretion pay the pension of said minor child or children to their mother or to their general or testamentary guardian, or to the person or persons who shall have the care and custody of said minor child or children, and the decision of said board of trustees as to what is deemed for the best interests of said minor child or children shall be final and conclusive, and payment according to its determination of the pension herein provided for shall be a full discharge of the moneys so paid.

6. This chapter shall apply to all who now are or shall hereafter become officers and members of the police bureau of the city of Niagara Falls, and all such persons shall be eligible to the benefits secured by the creation of this fund.

7. All moneys ordered to be paid out of said pension and relief fund to any person or persons shall be paid by the treasurer only, upon warrants signed by the chairman of the board and countersigned by the secretary thereof, and no warrant shall be drawn except by the order of said board duly entered in the record of the proceedings of said board. Said board of trustees is hereby authorized to deposit said fund in any of the banks of the city of Niagara Falls upon receiving adequate security therefor, or to invest the same in bonds and mortgages on improved real property worth twice the amount loaned, or in bonds of the United States, or of this state, or of the city of Niagara Falls, or of any city, county, town or village of this state, issued pursuant to the authority of the laws of this state. All interest, income or dividends which

shall be paid or agreed to be paid on account of any such loan or deposit shall belong to and constitute a part of said fund. Nothing herein contained shall, however, be construed as authorizing the treasurer to loan or deposit said fund or any part thereof unless so authorized by the board.

8. The board of trustees shall make a report of the condition of said pension and relief fund, to the council, in the month of January in each and every year.

§ 144. Subject to the direction of the city council, the city manager may, at any time, appoint if he considers it necessary for the public interests special policemen and detectives as he deems necessary to hold office during his pleasure; said special policemen shall have no salary or compensation from said city. In case of public disturbance or other emergency the city manager may appoint such policemen as he deems necessary who shall act not to exceed thirty days, and shall receive from the city such compensation as is fixed by the city manager. The city manager shall report any action taken by him under this section to the city council at its next meeting.

§ 145. **Fire.** The city manager shall appoint for the bureau of fire of said city a chief engineer and first assistant engineer and a second assistant engineer to serve during good behavior.

§ 146. The city manager may appoint a captain of each fire hall in said city who shall have command of said fire hall and who shall serve during good behavior.

§ 147. Said first and second assistant engineers and said captain shall be appointed from the paid firemen of said city, and in the absence of the chief engineer said first and second assistant engineers in the order of their rank shall perform all duties imposed upon said chief by statute or ordinance.

§ 148. Said chief engineer shall at all times, under direction of the city manager, have full control and charge of all members of the said bureau of fire of said city.

§ 149. The city manager shall have power to appoint such number of firemen and engineers of steam fire engines of said city as in his judgment shall be necessary; provided, however, that no appointment shall be so made which will increase the membership of the bureau of fire to a number greater than the number of such members fixed by resolution

of the city council. Such appointees shall hold office until removed for cause.

("As amended by Laws, N. Y. 1919, Chapter 364—Effective May 3, 1919").

§ 150. All members of the bureau of fire shall devote their entire time to their duties as such firemen and officers of said bureau. They may be removed by the city manager at any time for incapacity, neglect or misconduct in office. Such removal shall be founded on charges in writing, a copy of which shall be furnished to the accused officer or fireman, the original filed with the city clerk. Before such removal the accused shall have an opportunity to appear in person or by counsel and be heard in his defense at a public hearing. Pending such hearing the accused may be suspended from duty by the city manager for a period not exceeding ten days. Such charges shall be heard by the city manager and such accusations may be made by any person.

§ 151. The city manager, under direction of the city council, may organize, disband or reorganize fire companies in said city.

§ 152. The chief engineer, under direction of the city manager and subject to the provisions of the ordinances of the city, shall have charge of all the property belonging to said city for the use of said fire bureau, including the operation of the electric fire alarm; he shall recommend from time to time, whenever necessary, the purchase and repairs of engines, trucks, carts, hose and other apparatus, implements and supplies requisite and proper in and about the efficient management and operation of said bureau, which recommendation shall be filed with the city manager for his report thereon and by him referred to the city council for action unless otherwise prescribed by ordinances of said city.

§ 153. The chief engineer and each assistant shall have power at all reasonable times to enter upon and examine any premises within said city, when necessary for the purposes of said bureau, and they shall report all violations of statute or ordinances relating to fire to the city manager forthwith.

§ 154. The city manager shall report to the city council

from time to time concerning the condition of the bureau of fire with recommendations he deems advisable.

§ 155. The chief engineer shall investigate the cause and origin of fire in the city when directed so to do by the city manager or city council; testimony taken before him shall be reduced to writing, subscribed to by the witnesses and filed with his report with the city manager who shall report the same to the city council for such action as is deemed advisable.

§ 156. Every bystander at a fire shall be subject to the control of the chief engineer, the assistant engineers or of either of them during the progress of a fire.

§ 157. The chief engineer or assistant engineers in command at a fire may direct any burning building or other building he deems hazardous and likely to take fire and endanger the safety of other buildings to be torn down, blown up or otherwise destroyed, and may after any fire direct that all buildings or walls of any buildings damaged by such fire, if he deems them hazardous or dangerous to persons or property, be torn down or otherwise destroyed. No action shall lie at or be maintainable against said chief engineer or his assistants, but the owner or party interested shall have the remedy provided in the next section.

§ 158. Any person owning or having an interest in any building injured or destroyed by any act authorized by the last preceding section may, within three months thereafter, present to the council a claim therefor in detail, in manner and form as provided in this act. Unless so presented within said time such claim shall be barred. If so presented and not paid or compromised within the forty days thereafter, as herein provided, the claimant may, after said forty days, and within one year after the building was injured or destroyed, present a petition to the supreme court or the county court of Niagara county (upon which all requisite jurisdiction in the premises is hereby conferred) for the appointment of three commissioners to appraise his damages. If such petition be not presented within said year all claim for damages shall be barred. The petition shall be verified and a copy of it, with notice of the time and place of its presentation, shall be served on the corporation counsel at

least fourteen days before the day when it shall be presented. The court shall hear the proofs and allegations of the parties and shall, in a proper case, appoint three persons to ascertain the just compensation to be made to the claimant, and fix the time and place for their first meeting.

§ 160. The commissioners so appointed shall be paid a reasonable compensation for their services, not exceeding to each five dollars per day. Before entering upon their duties they shall take and subscribe an oath that they will faithfully discharge their duties. Any of them may issue subpoenas and administer oaths to witnesses. A majority of them may adjourn the proceedings before them from time to time in their discretion. They may view the premises, hear the proofs and allegations of the parties, and reduce the testimony taken by them, if any, to writing and after the testimony is closed, they shall, without unnecessary delay, ascertain and determine the amount which ought justly to be paid by the city to the claimant. In determining such amount the commissioners shall decide whether the building so injured or destroyed would have been injured or destroyed by fire; and if they decide that it would have been so injured or destroyed, they shall not award to the claimant an amount exceeding the amount of valid insurance which such claimant had then existing in his favor upon such building, and which he would lose by such injury or destruction. They shall make and sign their report and deliver the same to the city clerk.

§ 161. The said city or any person owning or having an interest in any building so injured or destroyed may within thirty days after filing of said report, appeal from the decision of the commissioners to the court whereby they were appointed by filing with the city clerk and serving on each of said commissioners a notice of appeal, stating the grounds thereof; the appellant shall at the same time pay to each of the commissioners two dollars for making return of said appeal; the commissioners shall, upon such service and payment, and within ten days thereafter, make and file with the clerk of Niagara county a full return of all their proceedings, and of all the evidence taken before them, together with a copy of their report; and the commissioners may be

compelled to make amended and further return in the same manner as in cases of returns by justices of the peace on appeal to county courts.

§ 162. The hearing on appeal, if in the supreme court, may be brought on by either or any party thereto, at any special term thereof, for hearing contested motions held in the counties of Niagara and Erie; if in any county court, at any term thereof at which contested motions are heard upon like notice as other motions in said court. Upon the return of the commissioners, their report and the notice of appeal, the court may confirm the report or refer it back to the commissioners with instructions to correct the same according to the decision of the court in the premises.

§ 163. In case no appeal is taken, the court may, upon application of the council, or any person interested, without notice, confirm said report. The correction of said report in pursuance of the decision of the court, or the confirmation of the same, shall be final and conclusive. The final order, and all other papers, shall be made into a roll and filed with the county clerk, and a certified copy of the final order shall be filed in the office of the city clerk.

§ 164. The council, upon the confirmation or correction of the report of the commissioners, upon agreement with the claimant, shall cause the amount awarded or agreed upon, with interest thereon from the date of the destruction or injury to the buildings, to be added to the next general tax levy in addition to any other sums hereby authorized to be raised thereon, and pay the same as in case of a judgment against the city.

§ 165. No certificate of discharge exempting a fireman from jury or military duty shall hereafter be given until the said fireman shall have made and filed with the clerk an affidavit that for five preceding years he has actually habitually been present with his company at fires in the city when not detained therefrom by illness, or other unavoidable circumstances.

§ 166. The council may by ordinance from time to time as the public interest in said city in its judgment may require, divide said city into fire districts and for the purpose of preserving the health of its inhabitants and of guarding

against calamities by fire, shall have power by ordinance to prohibit or regulate the erection, placing, alteration or enlargement within said districts or any of them of buildings constructed chiefly of wood or other material and to regulate and prescribe the character and mode of construction, alteration, enlargement, or repairing thereof, and to prescribe the materials which shall be used therefor, and to require that all or any buildings within said districts or any of them shall be made or constructed of stone or brick or other non-combustible material with partition walls of the same or other prescribed material, fireproof roofs, and brick, stone, or metallic cornices and eaves troughs, under such penalty as may be prescribed by such ordinances, not exceeding one hundred dollars for each offense and twenty-five dollars for each week any building so prohibited shall be continued. Every building hereafter erected, placed, altered or repaired contrary to the foregoing provisions or to any ordinances made in pursuance thereof is hereby declared to be a public nuisance and may be abated and removed as such by directions of the city council of said city, but nothing herein contained shall be construed to prevent repairs not increasing the risk of fire of any building allowed by it to remain within said fire districts or any of them. Said council may by ordinance require and regulate the erection of fire escapes upon buildings in said city and prescribe the material and mode of construction thereof.

§ 167. There shall be established in the city of Niagara Falls a firemen's relief and pension fund which shall consist of:

1. All securities, properties and moneys which were on December thirty-first, nineteen hundred and fifteen, in the possession of and under the control of the fire commissioners of said city of Niagara Falls, or which have since come or may hereafter come into the possession of or under the control of the council, and which, in their opinion, may be properly transferred to said firemen's relief and pension fund.

2. All fines, penalties and forfeitures that from time to time may be imposed upon any officer or member of the fire department of said city by way of discipline, collectible from pay or salaries or otherwise.

3. All rewards, fines, gifts or emoluments that may be paid

or given for extraordinary services rendered by any officer or member of said fire department, except when allowed to be retained by such officer or member by the city manager.

4. All moneys realized, derived or received from the sale of condemned, unfit and unserviceable property belonging to or in the possession of or under the control of said bureau of fire where the same does not exceed the sum of two hundred and fifty dollars in value for any one article.

5. All moneys realized, derived or received from the granting or issuing of licenses for the keeping or sale of fireworks, kerosene, coal oil, naphtha, gasoline, gunpowder and other explosive material.

6. All moneys realized, derived or received from fines or penalties under the provisions of the charter of the city of Niagara Falls or the ordinances thereof, for the conveying and removal of gunpowder, nitroglycerine and other explosives, in and through the city, or any part thereof, and the keeping and sale of fireworks, kerosene, coal oil, naphtha, gasoline, gunpowder and other explosive materials.

7. Such an amount, not exceeding two thousand dollars in any year, of the moneys and revenues received by the city from sources other than municipal taxes as may be fixed and appropriated by the council in the annual tax budget in the manner provided in this act.

§ 168. The mayor, the councilmen, the city treasurer and the chief engineer of the bureau of fire of the city and their successors in office, are hereby constituted the board of trustees of firemen's relief and pension fund and for this purpose shall be constituted a body corporate. The said board of trustees shall have the exclusive control, management and distribution of said fund. The mayor shall be the chairman, and the clerk of said board of fire commissioners shall be the secretary of said board of trustees. The city treasurer of the city of Niagara Falls shall be the treasurer of said board of trustees. Each of the officers shall serve without additional compensation. Said treasurer shall, from time to time, as said board of trustees shall direct, give a bond in such sum, not less than double the amount of money and negotiable securities in his hands at any time, and upon such conditions as said board of trustees shall require. When this act takes

effect the mayor shall call a meeting of the officers hereby designated to constitute such board of trustees for the purpose of carrying the provisions of this chapter into effect. The said board of trustees are hereby authorized to adopt rules and regulations for its government, and it shall hear and determine all applications for relief or pension under this chapter, and its decision shall be final and conclusive, and not subject to review or reversal except by said board of trustees. It shall cause to be kept a record of all its proceedings and meetings.

§ 169. 1. The city manager shall have the power and authority to retire or discharge from all service in the bureau of fire any officer or member thereof who may be found on examination by the surgeon of the department, duly certified under oath, disqualified physically or mentally for the performance of his duties in the bureau by reason of disease or disability caused or induced by the actual performance of the duties of his position without fault or misconduct on his part.

2. Every officer or member of said bureau who may have become permanently incapacitated from performing full duty as a fireman by reason of disease or disability caused or induced by injury or by long service and exposure while in the line of his duty as a fireman without fault or misconduct on his part, may on his own application, be retired from service by the city manager provided the applicant has been examined by the surgeon of the bureau and his sworn certificate filed, showing that the applicant is permanently disqualified from performing the duties of a fireman. A pension shall be granted and paid to each person so retired from the said firemen's relief and pension fund equal to one-half the annual compensation allowed him as a salary at the date of his retirement from the service, or such less sum in proportion to the number of officers and members so retired, as the condition of the fund shall warrant. But no officer or member of said department shall be entitled to any allowance as pension under the provisions of this chapter, during the time he shall be receiving full salary from said bureau of fire.

3. The widow, minor child or children or dependent parent or parents of any deceased officer or member of said fire bureau provided the death of such officer or member occurs during his service in said fire bureau and is caused or induced

by injury or by long service and exposure while in line of his duty without fault or misconduct on his part, or after he has retired on account of disability, or is discharged as hereinbefore provided by reason of his having become physically on mentally disqualified from performing his duty, shall be allowed and entitled to receive from said fund an allowance as pension. The amount of such pension shall be determined upon the following conditions.

a. To the widow of such officer or member, the sum of twenty-five dollars per month. But upon her remarriage, such pension shall cease.

b. To each child of such officer or member, under the age of sixteen years, the sum of five dollars per month. Upon the child attaining the age of sixteen years, such pension shall cease. In case the widow shall die or remarry then the pension allowed to her shall be paid to the child or children of such deceased officer or member who shall be under the age of sixteen years. But all such payment to any child shall cease when such child becomes sixteen years of age. The whole amount paid to the widow and minor child or children of any officer or member shall not exceed one-half the annual compensation allowed such officer or member, at the date of his death or retirement.

c. To the dependent parent or parents of such officer or member the sum of twenty-five dollars per month. No pension shall be paid to a dependent parent or parents in case the officer or member of said fire bureau so dying shall leave him surviving a widow or minor child or children. No more than one pension shall be paid in case both parents survive.

4. Said board of trustees shall pay the pension as allowed and fixed by this chapter from said relief and pension fund, and said board of trustees may, in its discretion, pay the pension of said minor child or children, to their mother or to their general or testamentary guardian, or to the person or persons who shall have the care and custody of said minor child or children, and the decision of said board of trustees as to what is deemed for the best interests of said minor child or children shall be final and conclusive, and payment according to its determination of the pensions herein provided for shall be a full discharge of the moneys so paid.

5. This chapter shall apply to all who now are or shall hereafter become officers and members of the fire department of the city of Niagara Falls, and all such persons shall be eligible to the benefits secured by the creation of this fund.

6. All moneys ordered to be paid out of said pension and relief fund to any person or persons shall be paid by the treasurer only, upon warrants signed by the chairman of the board and countersigned by the secretary thereof, and no warrant shall be drawn except by the order of said board duly entered in the record of the proceedings of said board. Said board of trustees is hereby authorized to deposit said fund in any of the banks of the city of Niagara Falls upon receiving adequate security therefor, or to invest the same in bonds and mortgages on improved real property worth twice the amount loaned, or in bonds of the United States, or of the city of Niagara Falls, or of any city, county, town or village of this state, issued pursuant to the authority of the laws of this state. All income, interest or dividends which shall be paid or agreed to be paid on account of any such loan or deposit shall belong to and constitute a part of said fund. Nothing herein contained, however, shall be construed as authorizing the treasurer to loan or deposit said funds or any part thereof unless so authorized by the board.

7. The board of trustees shall make a written report of the condition of said pension and relief fund, to the council, in the month of January in each and every year.

§ 170. 1. The said board of trustees may take by gift, grant, devise or bequest, free from taxation, any real or personal property, the annual income of which shall not exceed in the aggregate the sum of thirty thousand dollars.

2. No person shall store, keep for sale, sell or offer for sale, in the city of Niagara Falls, any fireworks, kerosene, coal oil, naphtha, gasoline, gunpowder or other explosives without first having obtained a license therefor from the city manager, and said city manager is hereby authorized and empowered to issue such license and to recommend ordinances to the council fixing the fee for such license and for regulating the keeping and sale of fireworks, kerosene, coal oil, naphtha, gasoline, gunpowder and other explosives in said city, and providing penalties to be paid for a violation

of such ordinances and for dealing in and keeping for sale, or storing such articles, without having first obtained a license therefor, as herein provided.

3. The treasurer of said board of trustees is hereby authorized and empowered to receive, collect, sue for, and shall have the exclusive right of recovery of any and all fines and penalties* which are to be paid into said pension and relief fund under this chapter. He may in his name as treasurer sue for, recover and collect the same, with costs, in the manner provided for in actions under the code of civil procedure, and all moneys so collected by him shall become a part of this relief and pension fund. The said treasurer may in his name as treasurer bring any suit or action hereby authorized, and any action to recover any fee, fine or penalty under this chapter, or under said ordinances, may be brought in any city court of the city of Niagara Falls.

§ 171. Any officer or board of officers of the city of Niagara Falls who shall realize, receive or derive any money, which under the provisions of this chapter is made a part of this relief and pension fund, is hereby directed to pay over the same on the first day of the month succeeding the receipt and collection thereof to the treasurer of the said board of trustees, to be used and applied as a part of said fund. These provisions shall not apply to pay, compensation or salary, or any part thereof, collected, forfeited, deducted or withheld from any officer or member of said fire department, for or on account of absence for any cause, lost or sick time, sickness or other disability, physical or mental.

2. All pensions granted under the provision of this chapter shall be exempt from execution, attachment or any process whatever. The said fund shall be sacredly kept and held secure, and distributed and applied for the purpose of pensioning the persons named in this chapter, and for no other purpose whatsoever.

3. Every person who knowingly or willfully, in any wise, procures the making or presentation of any false or fraudulent affidavit or affirmation concerning any claim for relief or pension, or the payment thereof, shall in every case forfeit a sum not exceeding two hundred and fifty dollars, to be

*So in original

sued for and recovered by and in the name of said board of trustees, and when recovered it shall be paid over to, and thereupon become a part of said relief and pension fund. Any person who shall wilfully swear falsely in any oath or affirmation in obtaining or procuring any pension or relief, or the payment thereof, under the provisions of this chapter, shall be guilty of perjury.

§ 172. The two per centum upon the insurance premiums payable to the treasurer of said city for the benefit of the fire bureau of said city, under section one hundred and thirty-three of the insurance law, shall within said city, be paid by each person or firm who may be liable to pay the same or any part thereof annually on or before the first day of February, in each year, upon the amount of the premiums in said section specified, by him or them received during the last year or part of a year ending December thirty-first, and the bonds to be given by local agents or persons within said city, under section one hundred and thirty-four of the insurance law, shall be conditioned in substance that the obligor will, annually on or before the first day of February render to said treasurer a just and true account, verified by his oath that the same is true of all premiums which during the last preceding year ending December thirty-first shall have been received by him or by any person for him, or agreed to be paid for any insurance of the kind, or for insurers specified in section one-hundred and thirty-three of the insurance law, and that he will annually on or before the first day of February pay said treasurer two dollars upon every hundred dollars and at that rate upon the amount of such premiums; and the penalty provided in section one hundred and thirty-five of the insurance law, shall apply to and be enforceable against any person effecting or agreeing to effect within said city any such insurance, without first having given the bond required by section one hundred and thirty-four of the insurance law, with conditions as hereby modified. Said money shall be by the said treasurer paid as follows: Ten per centum thereof to the Firemen's Association of the State of New York as provided by section one hundred and thirty-three of the general insurance law and the balance thereof to The Exempt Firemen's Association of

the city of Niagara Falls and LaSalle Exempt Firemen's Association, Inc., in the following proportions, to-wit, said The Exempt Firemen's Association of the city of Niagara Falls shall receive that portion of said balance which shall have been paid under the provisions of section one hundred and thirty-three of the insurance law for any insurance effected or procured against loss or injury by fire upon property situate within the corporate limits of said city as they now exist, or may hereafter be extended, west of the center line of Fifty-Sixth street, as it now exists, or may be extended northerly from the Niagara river, and the said LaSalle Exempt Firemen's Association, Inc., shall receive that portion of said balance which shall have been paid for any insurance effected or procured against loss or injury by fire upon property situated within the corporate limits of said city, as they now exist or may hereafter be extended, east of the center line of Fifty-Sixth street as it now exists, or may hereafter be extended northerly from the Niagara river; and said money shall be the property of and for the use of said exempt firemen's associations, and shall be applicable to the purposes for which said associations were established.

("As amended and superseded by Local Law No. 1, 1930—Effective March 31, 1930.")

§ 173. The city electrician, because his duties are equally allied with the fire department and police department of the city, is hereby entitled to share to the extent of one-half in the benefits and be subject to the provisions of each of the policemen's pension and relief fund and the firemen's pension and relief fund. Any pension or payment which may hereafter be paid to the city electrician, his widow, minor child or children, or dependent parent or parents, shall be taken one-half from the policemen's pension relief fund and one-half from the firemen's pension and relief fund. The trustees of the policemen's pension and relief fund and firemen's pension and relief fund are hereby authorized, empowered and directed to carry out the provisions of this section.

§ 174. **Health officer.** It shall be the duty of the health officer, under direction of the city manager and the ordinances of said city and under the powers conferred by the general

statutes of the state of New York, to discharge the duties imposed upon health officers and boards of health of cities of said state in addition to the duties imposed upon him by the ordinances of said city. He shall be the head of the bureau of health of said city and shall, subject to the direction of the city manager, have the direction and control of all matters pertaining to said bureau and the subordinates and employees therein.

§ 175. The health officer shall take such measures as shall be effectual to prevent the entrance of any infectious or contagious disease into said city; to require and compel every physician in said city and the keeper of every boarding house, hotel and the management of every hospital to report to said health officer any case of infectious or contagious disease to the knowledge of such person or management; to safely quarantine or cause to be removed to the quarantine hospital maintained by the city any person afflicted with such disease, and it generally shall be his duty, under the direction of the city manager, to discharge the duties imposed upon him by the ordinances of said city.

§ 176. The city shall maintain a quarantine hospital and the health officer of said city shall have the direction and control thereof and of the keeper and employees thereof; it shall be his duty to see that infected buildings, vessels, vehicles and places of all kinds are disinfected when exposed to infectious or contagious diseases and when necessary he shall destroy furniture, clothing and other property so infected as to be dangerous to public health. It shall be his duty to report to the city manager as to the health condition of the city from time to time as required by said city manager.

§ 177. The health officer shall have the supervision and control of the sanitary inspector and the officer discharging the duties of plumbing and drainage, so far as such officers' duties affect the public health, and such other employees of the city as may, from time to time, be appointed by the city manager and whose duties shall relate to the public health.

§ 178. In the presence of great imminent peril to the public health of the city by reason of impending pestilence it shall be the duty of the city council to take such measures for the preservation of the public health as it deems necessary

either upon its own volition or the recommendation of the health officer or city manager of said city.

§179. "Repealed by Laws of New York 1917, Chapter 442 —Effective May 14, 1917."

§ 180. Every keeper of an inn, hotel, boarding or lodging house, who shall receive or have in his or her premises in said city at any time any sick person shall report the fact and the name of the person in writing to the health officer of said city within six hours after such person shall be so received or shall become ill, and every physician shall report to said health officer the name, residence and disease of every patient whom he shall be called to attend and whom he shall find sick of any infectious or contagious disease within six hours after he shall have been called to visit such patient. Said report shall be in writing signed by the person required to make the report. A violation of the provisions of this section or any part thereof shall be a misdemeanor and punishable as such.

§ 181. The person in charge of any public conveyance or vessel entering said city and containing any person known to such person in charge to be sick of any malignant fever or any infectious or contagious disease shall be guilty of a misdemeanor unless said sick person became sick while in such conveyance or vessel and could not be removed therefrom; in such excepted case it shall be the duty of the person in charge of such conveyance or vessel forthwith upon his arrival in said city to report in writing to the health officer of said city the name of such sick person, the full facts in the case, such person's whereabouts and a description of the location of such conveyance or vessel, and he shall not permit such sick person to land, or to be put down, removed or to depart from such conveyance or vessel until said health officer shall give permission therefor. Any violation of the provisions of this section shall be a misdemeanor.

§ 182. Any person who shall knowingly bring or procure or cause to be brought into the city, any property of any kind tainted or infected with any malignant fever, or contagious or infectious disease, shall be guilty of a misdemeanor.

§ 183. Any person convicted of a misdemeanor under any of the provisions of the last four preceding sections, shall be

punished by a fine not exceeding five hundred dollars in amount, or by imprisonment in the county jail of Niagara county, for a term not exceeding one year or by both such fine and imprisonment.

§ 183-a. **Building Bureau.** There is hereby created in the City of Niagara Falls, New York, a bureau to be known as the "Building Bureau." The head of said bureau shall be known as the building commissioner which position is hereby created and declared to be a city office. The City Council shall fix the salary of said official. ("As amended by Niagara Falls Local Law No. 2, 1925, effective November 23, 1925.")

§ 183-b. The city manager shall appoint the building commissioner who shall hold office during the pleasure of said city manager. ("As amended by Niagara Falls Local Law No. 2, 1925, effective November 23, 1925.")

§ 183-c. The building commissioner shall be an architect or civil engineer or shall have had five years' practical experience in the erection and construction of buildings. He shall not, while holding such office, be engaged directly or indirectly, in the construction of buildings in said city or in the practice of his profession as architect or civil engineer. Under the direction and control of the city manager the building commissioner shall have charge of the construction and repair of all public buildings, except school and library buildings, in said city. It shall be his duty to enforce the laws of the state and the ordinances of said city relating to the construction, alteration or removal of all buildings or structures erected or to be erected within said city of Niagara Falls, and in so doing he may revoke any building permit issued by him therefor. Application for permission to construct, alter or remove buildings or structures within said city of Niagara Falls shall be made to the said building commissioner upon forms to be provided by said city, and shall be accompanied by plans and specifications therefor. He shall investigate such applications and examine such plans and specifications and report the same to the city manager with his recommendation thereon when required, and without unnecessary delay shall complete said investigation and examination and thereupon forthwith grant or refuse said permit. No permit to remove any building or structures shall be granted by the building commissioner until

notice shall have been given of the application therefor personally or by mail by the building commissioner to the owners residing within said city, of property within a radius of two hundred feet of the lot upon which said building or structure is to be removed and opportunity has been given said property owners to be heard upon such application. In case there is opposition to such application the same shall be referred to the city council for its decision.

("As amended and superseded by Niagara Falls Local Law No. 4, 1927—Effective October 3d, 1927.")

§ 183-d. It shall be the duty of the city electrician under the direction of the building commissioner to grant and refuse permits relating to electrical wiring construction and use therefor in said city except the electrical power stations and factories operated by electrical power and under the jurisdiction of the Public Service Commission of the State of New York. He shall inspect the electrical wiring of all buildings subject to his jurisdiction and if the work performed and materials furnished shall not be in accordance with the statutes of said state and the ordinances and rules of said city he shall cause the same to be done in accordance therewith. He shall enforce all ordinances of said city and statutes of said state relating to matters within his jurisdiction. All permits issued by said city electrician shall be counter-signed by the building commissioner.

It shall also be the duty of the city electrician under the direction of the city manager, to have charge of the repair, maintenance and care of the fire alarm system, police telegraph system and other electrical devices and apparatus of said city. To report promptly the condition of the same to the city manager, when necessary, or whenever required so to do by said city manager, and he shall discharge such other duties relating thereto as shall be required by the city manager.

Electricity shall not be turned on in any building within said City of Niagara Falls, subject to the jurisdiction and visitation of the city electrician, without written permission of said city electrician and the city shall furnish blanks for that purpose. Any one aggrieved by the refusal of said city electrician to grant such permit or permission may appeal by

written notice to the city manager who shall forthwith investigate and confirm such refusal, or reverse the same and direct the granting of the permit or permission.

("As amended by Niagara Falls Local Law No. 2, 1925, effective November 23, 1925.")

§ 183-e. The plumbing inspector of said city of Niagara Falls in addition to discharging the duties prescribed for him by the general city law and statutes of the state of New York, shall before any plumbing, sewers or drains are constructed or altered on any premises in said city, approve the plans and specifications therefor, and shall issue to the owner or party applying therefor a written permit to be counter-signed by the building commissioner when such plans and specifications are approved by him, and the construction or alteration of any plumbing, drains or sewers by any owner or person on any premises within said city without first obtaining such written permit of said plumbing inspector, shall be unlawful and is hereby declared to be a misdemeanor, and the unauthorized plumbing, sewerage, or drains shall be deemed a nuisance and shall be re-constructed or altered as directed and permitted by said plumbing inspector. Said plumbing inspector shall discharge such other duties in addition to those herein imposed upon him or imposed upon him by the general statutes of the state of New York, as may be imposed upon him by the building commissioner or the city manager of said city.

("As amended by Niagara Falls Local Law No. 2, 1925—Effective November 23, 1925.")

ARTICLE VIII

TAXATION AND ASSESSMENT.

Section 184. Powers and duties of city assessor.
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*So in original

§ 184. The city assessor, except as otherwise herein provided, shall perform all the duties and possess all the powers conferred by law upon assessors of the different towns of the state in and for said city, and shall be subject to all the obligations and perform all the duties specified in this act in reference to the assessment of property within said city for

the purpose of levying the taxes imposed or which may be imposed by the council of said city as well as by the supervisors of the county of Niagara, New York.

As directed by the city council, he shall make all local assessments.

§ 185. He shall make two assessment rolls for each ward of said city, one of which shall be known as the "general tax and assessment roll" and the other shall be known as the "school tax and assessment roll." He shall value all real estate in said city on one common and general principle of valuation which shall be applied alike to all real estate assessed within said city.

("As amended by Laws N. Y. 1922, Chapter 515—Effective April 6, 1922.")

§ 186. He shall make himself acquainted with the property assessed, and in all cases where unacquainted with it or where changes have occurred affecting its value, he shall personally view it before setting down its valuation upon the assessment rolls. He shall assess each lot or parcel of land separately giving the name of the owner, if known, or, if not known, the name of the occupant thereof, if occupied; the part of the lot assessed, the number thereof, the street, side of street, number of feet fronting on such street and such other brief description as will enable the land assessed to be definitely known and located. In cases where parcels of land otherwise separate are so built upon, occupied or used as to become premises not practically divisible, that fact shall be stated and a brief, proper description made according to the facts.

("As amended by Laws N. Y. 1922, Chapter 515—Effective April 6, 1922.")

§ 187. An error in the name of the owner or occupant of any parcel of land assessed shall not invalidate the assessments. If a parcel of land be unoccupied and the name of the owner be unknown, such parcel may be assessed under the designation of "unknown owner."

§ 188. The city assessor shall see that his rolls are correctly copied and kept corrected and the taxes laid or extended thereon and that his office is kept open from nine o'clock in the forenoon until five o'clock in the afternoon of every day,

Sundays and legal holidays excepted. He shall, at all times, except as herein provided, have the custody and control of the assessment rolls of said city.

§ 189. The city assessor shall complete the assessment rolls on or before the first day of February of each year and leave the same in his office for public examination; he shall thereupon, forthwith give notice by posting hand bills, in prominent places in each ward in said city and publishing such notice in the official paper of said city for six successive business days, which notice shall state that the assessment rolls are completed and left in the office of the city assessor where they may be seen and examined by any person until the first day of March following said notice; and that the assessor will attend during said time at least two days in each week, specifying the days, at his office for the purpose of reviewing his assessments in the same manner as assessors of towns.

("As amended by Laws N. Y. 1922, Chapter 515. Effective April 6, 1922.")

§ 190. For the purpose of reviewing said assessment rolls and correcting said assessments, said City Assessor shall have exclusive power to correct said rolls in respect to taxes imposed under the charter of said city or the ordinances thereof, in the same manner as the board of supervisors of a county may correct the town rolls of the county, and shall possess all powers in relation to such assessment rolls that the board of supervisors have in the case of town assessment rolls and town and county taxes. At the expiration of the time stated in said notice in the preceding section he shall cease to correct and review said rolls and he shall, within sixty days thereafter, have the school tax and assessment roll subscribed and verified by him and delivered to the city clerk to be by said clerk filed; and prior to October first he shall have the general tax and assessment roll, including the assessment of special franchises made by the state board of tax commissioners, completed, subscribed and verified by him and delivered to said city clerk to be by him filed; and a duplicate of the general tax and assessment roll of each ward shall be made and delivered by said assessor to the supervisor of the ward for which said assessment was made as

shown by said roll, to be by him delivered to the board of supervisors of the county of Niagara. During the time the city assessor is so correcting and revising said assessment rolls he shall have the power to add or insert therein any property liable to taxation and the assessment thereof which may have been omitted therefrom, upon giving at least two days personal notice thereof to the owner or agent of such property.

("As amended by Laws N. Y. 1922, Chapter 515—Effective April 6, 1922, as superseded by Local Law No. 1, April 26, 1926, as superseded and amended by Local Law No. 10, 1926, June 10, 1926.")

§ 191. Whenever said city assessor shall assess any person not previously assessed for personal property or shall increase any person's assessment for personal property who has been previously assessed, he shall notify such person in writing, personally or by mail addressed to the person's address last known to said assessor, postage prepaid, which notice shall give the amount of such assessment and shall be served on or before the day when the proposed assessment rolls are completed and notice thereof published according to law.

§ 192. Whenever there is * an manifest error in copying any assessment rolls or levying or extending any tax or assessment the city council may at any time, within six months after the completion of the said assessment rolls and on ten days' written notice to the party interested correct, cancel, remit or add to the same but shall not alter any valuation made by the assessor.

("As amended by Laws N. Y. 1922, Chapter 515—Effective April 6, 1922.")

§ 193. Said city assessor shall keep in his office maps and surveys of all the taxable property in the city certified by the city engineer of said city showing the location and boundaries of each piece of property taxed as nearly as practicable and the name of the owner, person or corporation assessed. Said assessor shall have power and it shall be his duty to make notations in pencil on said maps and surveys showing changes in ownership, and such notation shall be deemed to be a part of such maps and surveys. Reference shall be made to said

* So in original

maps and surveys in the annual assessment rolls, in all local assessment rolls and in certificates for unpaid taxes and notices and in all conveyances of property sold for unpaid taxes; and said maps and surveys shall be deemed a part of the description in said assessment rolls, certificates, notices and conveyances. Reference to said maps and surveys in assessment rolls may be made generally in captions thereto.

("As amended by Laws N. Y. 1921, Chapter 307—Effective April 21, 1921.")

§ 194. Every deed of conveyance of lands, including wills, exemplifications of record and land contracts, relating to lands in the said city shall be presented to the city assessor and stamped by him before it shall be recorded in the clerk's office of Niagara County, State of New York; the clerk of said county shall not record said deed, will, exemplification of record or contract unless so stamped, under the penalties prescribed in this section. Nothing herein contained shall affect the record of an unstamped deed, will, exemplification of record or contract. Every map, plot or subdivision map or plot of lands within said city showing a subdivision of said land into blocks or lots, shall, before being filed in the office of said clerk of Niagara County, or in any city office, be approved by the city engineer and presented to the city assessor and a copy thereof filed in said assessor's office; and a copy thereof shall also be furnished to and retained by said city engineer and shall be accompanied by a deed from the owner of the streets appearing on said map or plot conveying the fee of the street appearing on said map, and which deed shall be approved by the corporation counsel of said city. Said deed thus approved when delivered to the city assessor shall be by him delivered to said city clerk for record in said county clerk's office. The city assessor shall stamp said original map or plot. If any such map or plot, deed or conveyance of land, will or exemplification of record not so stamped be placed on file by any individual, association or corporation such individual, firm, association or corporation shall forfeit to said city the sum of fifty dollars to be recovered by said city in any court of competent jurisdiction.

("As superseded by Local Law No. 1, 1926, April 26, 1926.")

§ 195. The city assessor shall have power, in case of his temporary absence or inability to attend to the duties of his office, to designate a clerk in his office to do the stamping and conveyancing and the stamping and filing of maps in said office as required by statute or ordinances, which clerk shall perform such duties as directed by said city assessor.

§ 196. In case any taxable land has been or shall be omitted from any of the said tax rolls, for any of the three preceding years, the city assessor may insert or cause to be inserted in the rolls of the current year the proportion of the taxes which it should have borne in such preceding year, or either thereof, stating such additional taxes separately and such addition shall be collected as part of the tax for the current year.

("As amended by Laws N. Y. 1922, Chapter 515—Effective April 6, 1922.")

§ 197. Upon application of any person interested, made before sale as herein provided, the council may apportion any unpaid tax or assessment and determine the amount thereof chargeable against any separate parcel of the land originally assessed therefor, on such equitable principles as to it may seem applicable in the premises, and on payment to the city treasurer of the sum so determined, together with a pro rata proportion of all interest, fees or expenses which may have accrued thereon, said tax or assessment shall be extinguished as to such separate parcel; and the remainder thereof shall continue a lien on the remainder of the lands originally assessed therefor. This section shall apply to local assessments, general city taxes and school taxes.

("As amended by Laws N. Y. 1922, Chapter 515—Effective April 6, 1922").

§ 198. The council shall have power and it shall be its duty to raise by taxes in each year from the taxable inhabitants of said city and the property therein liable for taxation such sums of money as may be appropriated in the tax budget as herein provided, for the purpose of paying the indebtedness and obligations, including fixed salaries of officers, of the city to grow due in the ensuing fiscal year and such sums as may be determined for the purpose of a sinking fund or sinking funds; for the purpose of the public schools and

library; for the purpose of paving and macadamizing street intersections, not exceeding, however, two-tenths of one per centum of the assessed valuation of the real and personal property of the city as shown on the last tax roll; for the purpose of constructing sewers not exceeding two-tenths of one per centum of said assessed valuation, and for the other purposes of the city as provided in this act, not exceeding one per centum of said assessed valuation.

§ 199. The council may, and where required by this act shall in any year raise by general tax such further sum or sums as shall be authorized by any provision of this act, or as shall have been voted by a majority of the inhabitants of said city, entitled to vote, and voting to raise such additional sum or sums at an annual or special election called for that purpose, as herein provided. The council may annually make provisions for the payment of the principal of the bonded indebtedness of said city by adding to the general fund estimates a sum per annum which will be sufficient in the aggregate to pay the indebtedness for the payment of which said sinking fund is created, at maturity of such indebtedness, which shall be held by the city treasurer of said city as a sinking fund to be used by him in the payment of the principal of the bonds and certificates now outstanding or which may hereafter be issued by said city, when and as the same may become due and for no other purpose.

(As superseded by local law No. 1—Effective Feb. 14, 1927).

§ 199-a. The city council of said city is hereby authorized to invest and reinvest any sinking fund created by it, as in its judgment may be expedient, in the bonds or certificates of the city of Niagara Falls, New York, or in any bonds, certificates or securities, approved by the unanimous consent of all the members of the city council. The proceeds of such investments shall be placed to the credit of said sinking fund and shall be used for no other purpose than the payment of the indebtedness for the payment of which said sinking fund was created; provided, however, that should there remain a surplus in such sinking fund after the payment of the said indebtedness for which it was created, such surplus shall

forthwith be transferred and paid into the general surplus fund of said city.

(As superseded by local law No. 1—Effective Feb. 14, 1927).

§ 200. The sum stated and assessed for school purposes upon each separate parcel of land or personal property, composing the estate of any person, corporation or association, shall be set opposite the description and valuation of such parcels respectively in the last column of the school tax and assessment roll in said city and shall be taken and regarded in all things as the school tax thereon for that year. The sum stated and assessed upon each separate parcel of land or personal property, composing the estate of any person, corporation or association, shall be set opposite the description and valuation of such parcels respectively in the last column of the general tax and assessment rolls in said city, except in cases where there are items of unpaid local taxes, or sidewalk repair bills, or other unpaid accounts or taxes, which by virtue of the provisions of this act are lawful charges and liens on and against any of said parcels of land proper to be placed on said tax rolls; in such cases the said sum so stated and assessed thereon shall be set down in some convenient column other than the last column and such other unpaid items of amounts shall be set opposite to said parcel or valuation in some other convenient column or columns, with a brief note designating each thereof and the aggregate amount of such general and other taxes, charges and liens shall then be set down in the last column of said tax roll opposite said parcel of land and to be taken and regarded in all things as the general city tax thereon for that year; and said school tax and assessment when corrected and completed shall be filed within five days thereafter with the city clerk and by the said clerk be reported to the city council and upon being approved and confirmed by it shall be a lien upon the real estate described therein, and the assessor shall immediately make a true copy thereof certifying the same and forthwith deliver the same to the city treasurer, who shall within five days thereafter, cause notices to be published for twenty successive days in the daily newspapers printed and published in said city and cause such other notices to be given as the city coun-

cil may direct; that the same are left with the treasurer for collection and that for thirty days after the publication of such notice, every person may pay his tax to said treasurer without any additional charges, for ninety days thereafter two per centum fees shall be collected, for the next succeeding thirty days five per centum fees shall be collected and that all such taxes remaining unpaid after one hundred and fifty days in addition to said five per centum fees shall bear interest at the rate of six per centum per annum from the date of the confirmation of said tax roll. If any tax shall remain uncollected at the expiration of said one hundred and fifty days, the treasurer shall give notice to the person or persons against whom said taxes stand charged. The notices shall all bear even date and shall require said person or persons to pay unpaid taxes to said treasurer at his office within the term of fifteen days thereafter with fees and interest thereon; said notices shall be served in the same manner and form as notices in the matter of county and state taxes as herein specified, and the provisions with reference to the notice and persons serving the same as specified in reference to county and state taxes shall to all intents apply to the notices herein specified so far as the same may be applicable. The city treasurer shall collect said taxes, fees and interest as in said notices provided. The provisions of this section as hereby amended shall apply to the collection of the city taxes of said city of Niagara Falls, New York, for the year nineteen hundred and thirty as well as to all future taxes provided for in this section, but any taxes in the hands of the city treasurer for collection prior to the city taxes of said city for the year nineteen hundred and thirty and now unpaid, shall be collected by said treasurer in accordance with the provisions of section two hundred of said charter of said city of Niagara Falls, New York, as amended by the laws of said state of the year nineteen hundred and twenty-two, chapter five hundred and fifteen, as enacted and superseded by local law number ten of said city for the year nineteen hundred and twenty-six.

The general assessment roll when corrected and completed shall be filed with the city clerk on or before October first and by said clerk be reported to the council and upon being approved and confirmed by it shall be a lien on the real estate

described therein and the assessor shall immediately make a true copy thereof certifying the same and forthwith deliver it to the city treasurer who shall, beginning November first, proceed to collect the same and give the notices provided for in the case of the collection of the school taxes, and the same shall be subject to the same fees and penaltis, as provided in the case of school taxes.

("As amended by Laws N. Y. 1922, Chapter 515, effective April 26, 1922, as superseded by Local Law No. 2, 1926, effective August 14, 1926, as amended by Local Law No. 2, 1930, effective March 31, 1930, as amended by Local Law No. 2, 1931, effective February 16, 1931").

§ 201. "Repealed by Laws New York 1922, Chapter 515—Effective April 6, 1922."

§ 202. Immediately after the expiration of the fifteen days period mentioned in the fifteen day notices provided to be given in section two hundred of the city charter, the city treasurer shall certify to the city assessor a list of unpaid taxes, giving the names of the delinquent taxpayers and a description of each parcel assessed to them on which the taxes remain unpaid, the amount of the unpaid tax against each parcel, and stating particularly the reason, if any, why said tax was not paid. It shall be the duty of the assessor, with the advice and assistance of the corporation counsel, to forthwith thoroughly review and consider the unpaid taxes, and in case they shall ascertain and determine by an instrument in writing, to be signed by them and filed with the city clerk, that any of said unpaid taxes were illegally assessed for any reason whatever, it shall be their duty to specify the proper person and the real and personal property which was meant and intended to be assessed and taxed therefor respectively, and the same, with interest thereon at the rate of six per centum per annum from the time the same could have been paid without fees if correctly assessed, shall be placed upon the said rolls of said city for the next following year against the proper person and property, and shall there upon be in all things taken and regarded as a tax for such following year in addition to any other taxes for said year upon or against the same person or estate, and be collected and pro-

ceeded with in all respects in the same manner as the other taxes upon said rolls for said year.

("As amended by Laws N. Y. 1922, Chapter 515—Effective April 6, 1922, as superseded by Local Law No. 10, 1926, June 14, 1926.")

§ 203. All taxes and assessments hereafter levied in said city shall be a lien upon the lands on which they are assessed, for ten years from the first publication of the notice of such tax or assessment by the treasurer, and said taxes shall have priority in the order of time in which they become liens. All taxes and assessments which are liens at the time that this act takes effect shall continue to be liens as provided in this section and the collection thereof may be enforced as herein provided. The collection of every assessment and of every tax upon real estate, with the interest and additions, may be enforced by a sale of the real estate by the city treasurer as herein provided. If the proceedings to enforce said liens shall have been stayed by a court or judge, the period of such stay shall not be taken as a part of said ten years. Such liens shall be superior to any mortgage, judgment or other lien of any nature affecting said premises, except state and county taxes and liens in favor of the United States.

("As amended by Laws N. Y. 1922, Chapter 515—Effective April 6, 1922.")

§ 204. Where any improvements of paving and macadamizing are made on streets, avenues, highways or alleys, not theretofore paved or macadamized, the total cost of such improvements, including the cost of gutters, curbs and catch basins, shall be determined by the city engineer and confirmed by by the city council after the completion of said improvements. The city shall be considered a property owner as to any property belonging to the corporation of Niagara Falls, New York, abutting upon such street, avenue, highway or alley, so improved. Upon confirmation of the cost of the improvements as herein provided, said city council shall deliver to the city assessor a true statement of the cost and expenses thereof, except in the case where such improvement consists solely in the rounding of street corners as provided in sections one hundred and twenty-seven and one hundred and thirty of the charter of said city. It shall be the duty of

the city assessor to assess upon the property adjoining said street, avenue, highway or alley in length paved or macadamized or otherwise improved, which property so assessed shall include any city, school, county, state property, or that of any corporation, fronting on said street, avenue, highway or alley, the cost and expense of such improvement pro rata in proportion to the number of feet which each owner of said property has frontage on that portion of the street, avenue, highway so paved, macadamized or otherwise improved, save that the cost of all street intersections, including the rounding of corners of streets, avenues and alleys as aforesaid, shall be payable by the city at large out of the street improvement fund save so much of street intersections as are required to be paid by any street railroad corporation as provided by statute or the ordinances of the city. Whenever the owner or owners of three-fourths in feet frontage, assessed as aforesaid, upon any street, avenue, highway or alley, not heretofore paved or macadamized shall send a petition in writing to the city manager asking for the paving or macadamizing of such street, avenue, highway or alley and agreeing that the cost of all street intersections, including the cost and expense of the rounding of corners of streets, avenues or alleys as aforesaid, be assessed upon the property benefited, said city manager, under the direction of the city council, may proceed with such paving or macadamizing or rounding of street corners at the expense of all said prorperty owners thereon to be assessed as provided in this act, and all proceedings therefor shall be as herein provided: and if in such case there shall not be sufficient money in the street improvement fund to pay for the cost of such street intersections or rounding of the corners as aforesaid said work may nevertheless be proceeded with and the entire cost thereof, including street intersections and the rounding of the corners as aforesaid, assessed upon the property in proportion to the number of feet front which each said owner has upon said street. ("As amended by Laws New York, 1922, Chapter 515, effective April 6th, 1922, as superseded by Niagara Falls Local Law No. 11, 1926, effective June 14th, 1926, as amended by Niagara Falls Local Law No. 3, 1927, effective December 3rd, 1927.")

§ 205. Whenever any street railroad track runs upon or

along any street ordered to be paved or repaved or macadamized, the company owning such railroad tracks shall pay for the improvement of that part of said street which lies under and between said railroad tracks and two feet outside of the outer rails thereof; and the same shall be made with such material and in such form and manner as the city council shall elect and determine and at the same time that the other part of said street is improved. Within two days after receipt by such railroad company of written notice of the acceptance of any bid for paving, repaving, macadamizing or remacadamizing such street, it shall elect by writing filed with the city clerk whether it will construct such improvements by it to be made under direction of the city engineer or whether said city shall cause such improvements to be made for it upon the basis of said accepted bid. In case it shall so elect or in case it shall fail to elect within the prescribed time, said city council may cause such improvements to be made and the expense thereof shall be assessed against that part of the tracks of said railroad company so improved. The determination of the cost and expense of the improvements of that part of said street occupied by said railroad tracks and two feet either side thereof shall be determined by said city engineer and confirmed by said council and the amount thereof shall be assessed upon such part of the said street railroad tracks and property in the same manner and subject to the same opportunity for hearing and reviewing as the assessment upon other property for such improvement and in the same roll therewith; that part of said street not encumbered by said railroad tracks shall be paved or macadamized when ordered by the city council after taking the same preliminary steps herein provided for in other cases, and all the rules prescribed for streets having no railroad thereon shall apply to such street excepting that the city and adjoining owners shall not be charged with the cost and expense of that part of said street lying under and between said railroad tracks and two feet each side thereof. The provisions of this section in reference to the material and to the assessment against the track and property of the street railroad company shall apply to any paving, repaving, macadamizing or remacadamizing, contracts for which have already been awarded in said

city, and an assessment therefor against the property and tracks of such street railroad company may be made as herein provided.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

§ 206. The council shall have power to extend the time for the payment of the assessment made on account of such improvements and to make the same payable in ten equal annual installments. The first installment shall be payable immediately after the delivery of the first warrant for the collection thereof to the treasurer, the remaining installments shall be payable each successive year thereafter on warrants issued for the collection thereof, with interest on the whole amount of such assessment unpaid at the rate of five per centum per annum from the twentieth day after the first warrant is delivered to the city treasurer, payable with each of said installments. The first warrant shall command the collection of the frst installment only and the cost of the sewer, gas and water connections made by order of the council and each successive warrant shall command the treasurer to collect the installment then due, together with interest as above provided, all of which shall be with the privilege on the part of the person assessed to pay the entire assessment on the first warrant, or to pay all unpaid assessments, together with interest thereon, to the date of payment on any warrant thereafter issued. The payment of interest on assessments heretofore made shall be collected in the same manner as is provided by this section.

("As superseded and amended by Local Law No. 5, 1927, effective January 13, 1927.")

§ 207. The city council may pay for any paving or macadamizing directed by it in conformity with this act by the issuance and delivery to the contractor of negotiable warrants upon the city treasurer bearing interest at the rate of five per centum per annum or by the sale of such warrants which shall be so drawn as to be payable out of the several installments of local assessments as they shall become due, which said warrant shall impose no obligation on the part of said city other than to collect and pay over said moneys from said assessments.

§ 208. Every tax and assessment imposed under any of the provisions of this act shall be a lien upon all real estate against which the same shall be assessed from the time of the assessment and levy thereof by the council and for ten years thereafter unless sooner paid, with interest and additions.

("As amended by Laws N. Y. 1921, Chapter 307—Effective April 21, 1921.")

§ 209. "Repealed by Laws New York, 1921, Chapter 307—Effective April 21, 1921."

§ 210. The council, upon the confirmation of any report of commissioners in condemnation proceedings, shall direct the just compensation of the owner or owners, or any person or corporation interested in the property as ascertained by the report, together with the costs and expenses of the assessment, to be assessed upon the land benefited by the taking of the property and the assessment shall be made and collected as in other cases.

§ 211. Whenever under the provisions of this act the expense or any portion of the expense of any improvement, including paving or opening of any street, avenue, highway or alley, is required to be assessed upon the property specifically benefited or upon property abutting on any street, avenue, highway or alley, which property shall include that of said city, a county, a state or any corporation so abutting, the assessment shall be made by the city assessor of said city, or if he shall be interested in said improvement, the said assessment shall be made by the city council for that purpose; and upon the completion of said assessment said city assessor shall cause to be published daily for three successive days in the official paper of said city a notice subscribed by him as said assessor, stating in substance that said asessment, naming it, has been completed and that the roll thereof will remain in his hands at his office for inspection by all persons interested therein for five business days next following the day of the first publication thereof. Upon the day of the first publication of said notice said city assessor shall deposit in the post-office in said city, postage prepaid, a printed copy of said notice directed to each of the persons whose names shall be entered upon such roll and residing in said city; and in

case of any registered owner or agent of any unoccupied lot, as herein provided a copy of said notice shall in like manner be mailed to such registered owner or agent. At the expiration of said five days said city assessor shall report such assessment to the city council and before any further action is had on said improvement, except as herein otherwise provided, the assessment shall be approved by the city council, or, if disapproved, a like assessment shall be ordered and like proceedings had thereon as in the first assessment. When any such assessment shall be reported by the city assessor to the city council, the city clerk shall enter that fact in the minutes of its proceedings, specifying the assessment, and stating in substance that at a designated meeting of said council, to be held not less than three days after the publication of said notice, the city council will consider and act upon such assessment and that any and all persons interested therein will be heard by the city council as to its approval of the same; and the publication of such entry in the official paper of said city in and as part of the proceedings of said council shall be sufficient notice of the facts therein stated to all parties therein assessed or interested. At least one week shall intervene between the time of reporting any such assessment to the city council and any action thereon. Any person interested may file with the city clerk before the city council shall consider and act upon such assessment written allegations in favor of the approval or disapproval thereof, at the meeting wherein the said council shall consider and act upon the same. Said council may postpone action thereon but not more than once and for a period not exceeding one week, and in such case, a like notice and hearing or opportunity to be heard shall be given to all interested persons. The expense of postage and publication of notices, so far as the same can be estimated and ascertained, shall be included in the expense of making the improvement and in the assessment therefor, and the city assessor shall include the same in said assessment. Whenever any assessment for any local improvement, authorized by the city council, is declared by any court of competent jurisdiction to be invalid or uncollectible, in whole or part, because of any irregularity in procedure as to said assessment, the city assessor shall forthwith correct and re-

assess said assesment against the property assessable therefor, and the proceedure in such reassessment, and the collection of the same, shall be the same as required to properly ordinarily assess and collect the same. In case any such assessment, in whole or part, is declared by such court, to be invalid or uncollectible, on the ground that the property assessed is not legally assessable, such part or all of any warrants issued for such local improvement as may be uncollectible and unpaid because of said judgment of said court, shall be paid out of the street improvement fund or the general fund of said city. ("As superseded and amended by Local Law No. 3, 1927, effective December 3rd, 1927.")

§ 212. Immediately after the confirmation of the assessment by the council, the city clerk shall attach a warrant thereto for and in behalf of the council and deliver the same to the city treasurer, who shall immediately give notice by advertisement for five business days in the official paper of the receipt of the roll of such local assessment, and requiring the person addressed therein to pay the sums due thereon from them respectively to him at his office within twenty days from the day of the first publication of such notice, and that he will receive said amounts as follows, namely: for the twenty days after the first publication of said notice, without fees; for the next twenty days thereafter, two per centum will be added and collected, and that all such taxes remaining unpaid after forty days will bear interest at the rate of twelve per centum per annum from the date of the confirmation of such assessment until the same are paid or reassessed as herein provided, and also immediately and on the day of the first publication of such notice as aforesaid, give written or printed notice to each person assessed on said roll, if a resident of said city, or if a nonresident to him or to his registered agents, specifying the amount of the assessment, or the installment thereof due from him, and requiring payment thereof, in the same time, and on the same terms as to fees above specified. Such notices shall all bear even date, and shall be served by depositing the same in the post-office in said city, in postpaid, sealed and addressed envelopes to such persons at their last known place of residence, and no personal call or demand shall be necessary in the premises; but no notice need be

served on any unknown owner. The foregoing interest and fees are hereby established as and by way of penalty for the nonpayment of such local taxes within the first twenty days after notice as above described, and it shall be the duty of the city treasurer to enforce and collect the same for the use and benefit of the city; but in case of assessments made payable in installments, the like notice except publication shall be given as to each installment immediately upon the same becoming due, and the provisions as to the fees and interest above shall apply to each installment in case of nonpayment thereof within the first twenty days next after such notice is given Such fees and interest shall be computed on the sum or amount of the principal and interest of the installment, at the time the same becomes due. At the expiration of sixty days after the first publication of the treasurer's notice, as aforesaid, if any of said taxes shall remain unpaid the treasurer shall notify the assessor who made the assessment thereof, in case said assessors be then in office and competent to act in the premises, and if such assessor be not in office, or for any reason be incompetent or unable to act, the treasurer shall notify the council of such unpaid taxes, and it shall, thereupon by resolution, designate some proper and competent assessor, or other person in place of said original assessor and it shall be the duty of said original assessor or person designated, with the advice and assistance of the corporation counsel, to thoroughly review and consider such return taxes and assessments, and in case he or they shall ascertain and determine by an instrument in writing signed by him or them, and filed with the city clerk, that any of said taxes and assessments which were illegally assessed in any particular whatever, he or they shall forthwith reassess the several items of said taxes and assessments which were illegally assesed in any particular whatsoever to the proper persons respectively, and to and against the proper several parcels of land originally chargeable therewith, and report such reassessment to the council, and file the same with the city clerk, and such notice thereof shall be given as is required when an assessment for local improvement is made; and the same proceedings shall be taken to collect such taxes as assessments so reassessed as in the cases of original assessments for local improvements.

After the review of such unpaid local taxes and assessments by the said assessor, and before the completion of the next general city tax roll, the treasurer shall make a statement of such items thereof as are not found to be illegally assessed as aforesaid under his hand, and file the same with the assessor who shall place and assess such unpaid items, with the interest and fees thereon, computed as hereinbefore prescribed, in a separate column headed "local assessments," on said general tax roll, against the respective lots or parcels of land upon which said unpaid local taxes were originally assessed, and with some proper note or memorandum designating the local assessments from which said items were derived, and the same shall be added to the annual city tax, and such other items of taxes as may be assessed on said general city tax roll, on or against the respective lots or parcels of land upon which such unpaid items were assessed, and be placed together therewith as one sum in the last total column on said general city tax roll; and thereafter the said aggregate amount in each case shall be regarded and described in all proceedings as "general city" tax, and shall be collected in the same manner, with the same interest, percentages and effect as other general city taxes. In all cases of reassessment of any tax for local improvement upon the general city tax roll, as herein provided, the council may in its discretion immediately transfer from the general fund to the proper local improvement fund a sum equal to the amount so reassessed as the same appears on the general city tax roll. Where land belonging to the city of Niagara Falls lies upon the lines of a proposed local improvement, the council may authorize the mayor or city clerk to sign the petition therefor, with the same effect as that which follows the signature of an individual owner thereon, and may pay its just proportion of the whole assessment and raise the money necessary to pay the same in the general tax levy next succeeding the confirmation of such local assessment. No error or mistake in the name of any owner or occupant of any lot or parcel of land assessed for a local improvement, or the fact that the name appearing in the assessment-roll for a local improvement as the owner or occupant of any lot or parcel of land therein described is not the name of the owner or occupant of such

lot or parcel of land, shall invalidate said assessment-roll for such local improvement, but the amount appearing thereon as being assessed upon such lot or parcel of land shall nevertheless continue and be a lien on the land designated from the time of the confirmation of such local assessment-roll. The council may renew any warrant for a local assessment once for a term not exceeding thirty days.

§ 213. Whenever the unpaid taxes and assessments, with the lawful fees and interest in addition thereto, or any one piece or parcel of land shall have been in the hands of the city treasurer for at least six months prior to July first, nineteen hundred and twenty-one, and July first of each year thereafter, the city treasurer shall proceed to advertise and sell such real estate in the manner hereinafter provided, for the payment of such tax or assessment, fees and interest, and the expense of procuring description, publishing notices and of conducting the sale, all of which shall be charged on the lands sold and shall be added to the other charges thereon. Should any errors be discovered in the description of the land so assessed and taxed, the city treasurer may correct the same at any time previous to the sale. In the event that the same land shall be twice assessed and taxed for the same purpose and the taxes or assessments thereon once paid, the city treasurer shall cancel the one remaining unpaid and report the facts in full to the city council, who shall provide for the deficiency arising therefrom.

("As amended by Laws N. Y. 1921, Chapter 307—Effective April 21, 1921.")

§ 214. The city treasurer shall on or immediately after the first day of July, nineteen hundred and twenty-one, and on or immediately after July first of each year thereafter, cause to be published at least once in each week for six weeks in the official paper of the city, a statement concerning unpaid taxes in the city. This statement shall give the names of the parties to whom each piece of land on which the taxes remain so unpaid, was assessed, and in connection therewith a description of the land and also a notice that the real estate will on a day at or after the expiration of the said six weeks, to be specified in such notice and the succeeding ones, be sold at public auction to the highest bidder at the office

of the city treasurer in the city of Niagara Falls, to discharge the taxes, fees, interest and expenses which may be due thereon at the time of the sale. The expense of publishing said notice shall not exceed the sum of two dollars for each piece or parcel of land so advertised. On the day designated in the said notice, the city treasurer shall commence the sale of said real estate at public auction to the highest bidder, and shall continue the sale until such lands are all disposed of. ("As amended by Laws N. Y. 1921, Chapter 307, effective April 21st, 1921.")

§ 214-a. The purchasers at such sale shall pay the amounts of their respective bids to the city treasurer immediately after the sale, and after such payment shall have been made, the city treasurer shall add a penalty of ten per centum of the original tax to the amount chargeable to such real estate for the benefit of said purchaser and shall give to such purchaser a certificate under his hand and official seal, certifying to the sale as provided for in this act, and describing the real estate sold to such purchaser and giving the amount paid and the penalty attached thereto, and such certificate shall entitle its legal holder, the purchaser or his heirs or assigns, if redemption is not made as hereinafter provided, to receive a conveyance from the city treasurer as hereinafter provided, which shall convey full and absolute title. The city treasurer shall be paid by such purchaser the sum of fifty cents for his fees on the delivery of such certificate of sale. ("As amended by Chapter 307, Laws N. Y. 1921, effective April 21, 1921.")

§ 214-b. If the real estate shall sell for more than the amount of the tax, interest additions and expenses aforesaid, the surplus shall be paid over by the city treasurer to the supreme court by delivering the same to the county treasurer of Niagara county, and such court shall ascertain and determine who is entitled to such money, and, if it shall appear that such proceedings are valid and regular, order and decree its distribution and payment to the person or persons entitled thereto. If any such surplus shall remain unclaimed in said court for a period of ten years, the same, with accrued interest thereon, shall, upon the applicaton of the corporation counsel, and after publication of notice that such application has been made in the official paper for ten successive issues thereof,

Sundays and holidays excepted, be paid to the treasurer of the city. ("As amended by Chapter 307, Laws N. Y. 1921, effective April 21, 1921.")

§ 214-c. The owner, or any person interested in, any real estate or having a lien or claim thereon, or any part thereof, sold for taxes as aforesaid, may redeem the same at any time within two years after the day of such sale by paying to the treasurer for the use of the purchaser, his heirs or assigns, the sums mentioned in his certificate, together with all sums subsequently paid for taxes on said land, and the penalty attached thereto, and the interest thereon at the rate of ten per centum per annum, to be calculated from the date of such certificate and from the date of the payment of any and all subsequent taxes. ("As amended by Chapter 307, Laws N. Y. 1921, effective April 21, 1921.")

§ 214-d. At the end of two years from the date of any certificate of sale, given as herein provided, the owner of such certificate, or his legal representative, shall cause to be served upon the occupant of the land described in said certificate, if it be occupied, and upon the owner of any mortgage upon or judgment against such real estate that is upon record in the office of the clerk of the county of Niagara, New York, a written or printed notice, stating in substance the facts of the sale and purchase, the person to whom sale was made, the person now holding such certificate, the amount paid and the whole amount necessary to be paid in order to redeem said real estate, such amounts shall be the original tax or assessment with the fees, penalty, interest and expenses as hereinbefore provided for and added thereto and for a further penalty of ten per centum and five dollars for expense of this notice and the interest of the whole amount at ten per centum per annum, for six months from the date at which the two years from the date of the certificate expired and the amount of surplus moneys, if any, arising from said sale. The occupant, or the owner of any mortgage or judgment, or any person interested in said real estate may redeem said real estate by paying to the city treasurer for the benefit of the owner of said certificate the amount as given in the notice at any time within six months after said holder of certificate shall have furnished to the treasurer proper proof that the

notice herein provided for has been served as herein required. This service must be made by personally giving a copy of such notice to the accupant, if an occupant can be found on the premises and if none can be found, then by posting such copy of notice conspicuously on the premises and by mailing such notice as a registered letter to the owner of any mortgage or judgment so recorded as a lien upon such premises if the post office address of such person can be asertained by diligent inquiry. The proper proof of service to be furnished the city treasurer as above provided for shall be an affidavit of the person serving the notice upon occupant or posting the notice on premises, and the registered letter receipts from the holders of liens or the registered letters returned undelivered with an affidavit that after due diligence the correct address could not be ascertained, or an affidavit that after due diligence no information as to the post-office address of these parties could be found. In case redemption is made by the owner of a mortgage, lien or judgment, the treasurer shall give the person so redeeming a certificate showing such facts and the amount paid. Such certificate may be placed upon record in the office of the county clerk of Niagara county, New York, when the amount so certified shall be added to such mortgage, judgment or lien and become a part thereof. If such real estate sold for taxes or any portion thereof be not redeemed as herein provided, the city treasurer shall, at any time after the expiration of the time for redemption, as provided in this section, upon application of the purchaser, his heirs or assigns, execute to the purchaser, his heirs or assigns, a conveyance of the real estate so sold which shall vest in the grantee an absolute estate in fee. Any such conveyance shall be conclusive evidence that the sale was regular, and also presumptive evidence that all proceedings prior to the sale, from and including the assessment of the lands sold, and that all notices required by law to be given previous to the expiration of the time allowed by law for the redemption thereof were regular according to law, and the provisions of this act. After six years from the date of record of any such conveyance in the Niagara county clerk's office, such presumption shall be conclusive. The city treasurer shall be entitled to demand and receive from the

purchaser, one dollar as his compensation for preparing such conveyance. Immediately after receiving such conveyance the purchaser or his legal representatives or assigns may take full possession of the premises described in said conveyance, and may lawfully possess, hold and enjoy for his and their own proper use, and the use and benefit of his and their heirs and assigns forever, and he or they may cause the occupants of such real estate to be removed therefrom, and possession thereof to be delivered to him or them in the same manner, and by the same proceedings, and by and before the same officers, as in the case of a tenant holding over after the expiration of his term without the permission of his landlord. ("As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.")

§ 214-e. Whenever any purchaser or his legal representative or assigns, after receiving such conveyance, or whenever any purchaser after a sale in an action brought as hereinafter provided, shall be unable to obtain possession of the real estate thus conveyed, by reason of any error or irregularity in the assessment of any person or property, or in the levying of a tax or in the description of the property, or any proceeding for the collection of any tax or assessment, the city council shall reimburse the purchase money and expenses so paid with the lawful fees, the same to be presented and audited as other city charges. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-f. It shall be the duty of the city treasurer to bid in for the city of Niagara Falls at any sale of land for taxes, by virtue of this act, every lot of land put up by him, for which no person shall offer a bid, to the extent of the taxes or assessments and charges thereon, and a certificate of such sale shall be made by the city treasurer. At the end of two years the city treasurer shall give the notices required by section two hundred and fourteen-d in all cases where the certificate of sale is then owned by the city and such purchase shall be subject to the same right of redemption as purchases by individuals. At any time before the expiration of the time of redemption, the city treasurer may sell and assign any such certificate of sale, either at public or private sale, to any person who shall forthwith pay into the

city treasury the amount chargeable thereon. Such purchaser shall perform the same duties and have the same rights as any other owner of a certificate of sale. At the end of the time of redemption, the city treasurer shall execute conveyances to the city of Niagara Falls for all lands described in all certificates made by him, of sales in which he bid in the land for the city which have not been sold or assigned by him. Such conveyances shall vest absolute title in fee in such lands in the city of Niagara Falls and such lands shall be used or disposed of by said city in such manner as may be determined by the city council. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-g. The holder, including the city, of any certificate of sale executed by the city treasurer as herein provided, instead of taking a conveyance of the property purchased, may recover the amount paid therefor as in such certificate mentioned with all interest, additions and expenses allowed by law, and for that purpose may maintain an action in the supreme court or in the county court of Niagara county to sell such real property. Jurisdiction of such action is hereby conferred upon said county court. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-h. The action provided for in the last section may be commenced at any time after two and one-half years from the date of sale mentioned in the certificate of sale; and all the provisions of law and the rules of practice relating to actions for the foreclosure of mortgages shall apply to the action hereby authorized so far as practicable except as herein otherwise provided. It shall be sufficient for the plaintiff to set forth in his complaint in such action a copy of or the substance of his certificate of sale, and the interest, additions and expenses claimed by him, with a statement that the premises described in the certificate have not been redeemed from or conveyed pursuant to the sale herein mentioned, and that the plaintiff elects to recover as herein provided, also that the defendants have or may have some interest in or lien upon the property affected by the action. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-i. The plaintiff in such action shall include and join therein and may likewise recover upon all prior and subse-

quent certificates of sale held by him executed by the city treasurer, relating to the same real property in whole or in part. He may include and join in one action all such certificates of sale relating to two or more separate and distinct parcels of real property belonging to the same person or persons. He shall make parties to the action the city of Niagara Falls, the county of Niagara, the owner of and all other persons interested in the real property affected, or any part thereof, including the holders of all prior and subsequent certificates of sale as shown by the records in the city treasurer's office. The people of the state of New York may be made a party to such action the same as a natural person, and the summons shall be served on the attorney-general who shall appear on behalf of the state. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-j. The defendants in said action, including the city, who are the holders of certificates of sale shall be paid from the proceeds of the sale the several amounts paid for the real estate purchased as mentioned and described in certificates of sale held by them, with all interest, additions and expenses allowed by law, so far as said proceeds shall suffice to pay the same, in order of the lawful priority of the liens and interests of the respective parties in and against the premises as the same may be determined in the action. It shall be sufficient for any such defendant to set forth in his answer his certificate of sale or the substance thereof with the other allegations in effect as herein provided with regard to the complaint in the action. A defendant alleging irregularity or invalidity of any tax, assessment or sale shall particularly specify in his answer such irregularity or invalidity. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-k. The court shall have power to determine and enforce in all respects the rights, claims and demands of the several parties to said action, including the rights, claims and demands of the defendants as between themselves, to direct a sale of such real property and the distribution or other disposition of the proceeds of the sale. Any party to the action, including the city, may become the purchaser on

any such sale. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-l. Every certificate of sale upon which the holder shall elect to recover as herein provided, shall presumtively be valid and shall be presumptive evidence that the sale was regular and valid and that all previous steps and proceedings required by law were duly had and taken. No such certificate of sale and no tax or assessment for the non-payment of which the same was executed shall be deemed invalid or impaired on account of any irregularity or illegality therein, or in the proceedings relating thereto, unless it is shown that the person complaining thereof has suffered actual injury therefrom, and that only to the extent of such injury, and no such tax, assessment or certificate of sale shall be deemed invalid or impaired on account of any error or omission in the description of the property assessed or sold if the description is sufficient to identify such property with reasonable certainty. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-m. The remedy herein provided shall be in addition to all other remedies allowed by law with regard to certificates of sale and shall not be dependent upon them, or any of them, and may be had whether notice to redeem has been given or not; provided, however, that nothing in this act contained shall be held to validate any claim or demand, the enforcement of which otherwise is barred by lapse of time. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-n. A conveyance made pursuant to a judgment in any action, brought as herein provided, shall vest in the purchaser all right, title, interest, claim, lien and equity of redemption in and against the premises sold, of all the parties to the action, and of all persons claiming under them, or any of them, subsequent to the filing of the notice of the pendency of the action, or whose conveyance or incumbrance is subsequent or is subsequently recorded, except subsequent taxes and assessments and sales on account thereof, and except taxes and assessments which were liens on the premises at the time of the filing of the notice of the pendency of the action, but for the non-payment of which no sale had been had prior thereto,

and any sales on account of such taxes, and all such parties and persons shall be barred and forever foreclosed by the judgment in said action of all right, title, interest, claim, lien and equity of redemption in and to the premises sold, or any part thereof, except as aforesaid. The judgment in any such action may direct the cancellation or satisfaction of record of taxes, assessments or other claims of any of the parties to the action. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-o. The court may in its discretion designate the city treasurer as the officer to make sale of real property in any action brought as herein provided, and the city treasurer shall serve without charge. Unless the judgment otherwise directs, the officer making the sale must, out of the proceeds, first pay, as a part of the expenses of the sale, all taxes and assessments which are liens upon the property sold, but which have become such subsequent to the filing of the notice of the pendency of the action, or for the non-payment of which no sale has been had prior thereto, and redeem the property sold from any sales for unpaid taxes and assessments which were had subsequent to the filing of such notice of pendency. The plaintiff's costs and allowances, exclusive of disbursements, shall not exceed fifteen dollars if he recovers less than fifty dollars or twenty-five dollars if he recovers more than fifty dollars and less than five hundred dollars unless in such case the court shall in its discretion otherwise direct, after the trial of the issue raised by an affirmative allegation in a verified pleading in an action, in substance or effect, that the lien or interest claimed by any party to the action in the property described in the complaint is invalid. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-p. The corporation counsel may have made such tax and title searches of each parcel of land involved in any action brought as hereinbefore provided, to which the city is a party, as he deems best in the city's interest. Whenever the city is the owner and holder of tax liens against, or certificates of sale of, premises directed in or by a judgment in any such action to be sold, the corporation counsel may attend such sale and bid thereat such an amount as he deems best in the interests of the city, not exceeding, however, the

aggregate amount due upon the liens and certificates of sale held by the city, plus the amount of all prior liens and the legal costs and expenses of the action and sale, and not exceeding the assessed valuation of the premises sold, unless a bid in a higher amount is authorized by the city council. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-q. It shall be presumed that every tax levied and assessment made is valid and regular, and that all the steps and proceedings required by law were taken and had, until the contrary shall be made to appear. Any action or proceeding commenced by any person or persons to test the validity or regularity of any tax levied or assessment made shall be commenced within one year from the first publication of the notice that the roll in which said tax or assessment is contained is ready for collection as provided by this act. The invalidity or irregularity of any tax or assessment shall not be available as a defense of any action or proceeding commenced after the expiration of one year from the delivery of the roll and publication as aforesaid, for the collection of said tax or assessment, or for the enforcement of any right or title, by virtue of any sale thereunder, unless an action or proceding to test the validity or regularity of such tax or assessment shall have been commenced within the time hereinbefore limited for commencing the same, and shall be still pending, or such tax or assessment shall have been adjudged to be irregular and invalid. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-r. Nothing contained in this act shall be held or understood as in any way affecting the validity or lien of any state or county tax heretofore or hereafter to be levied or assessed upon or against any lands in the city. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-s. The city treasurer shall enter and record in his office his proceedings upon such sales, and all certificates granted by him, and all redemptions and all proceedings whereby sales are defeated or discharged. He shall also file and record all notices of sales published by him, together with his own affidavit, or that of the publisher or foreman of the

official paper, of the publication of such notices, and of all other notices which have been given by him; and he shall keep a record of all certificates and conveyances made by him as provided in this act. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-t. When it shall be discovered that the proceedings in ordering or in levying any tax, or in ordering or in making any assessment, have been so irregular as to render them illegal and void, the city council may annul them, or may annul any of them subsequent to and including the irregularity, and may begin the proceeding anew, or from the point where the irregularity occurred. When any lands are imperfectly described in any tax or assessment roll, the council may direct the correction of the desciption. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 214-u. The city treasurer at any time before the lands are advertised for sale for non-payment of the tax or assessment, and not afterward, may correct the imperfect description. (As amended by Chapter 307 Laws N. Y. 1921, effective April 21, 1921.)

§ 215. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 216. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 217. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 218. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 219. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 220. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 221. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 222. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 223. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 224. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 225 "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 226. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 227. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 228. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 229. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 230. "Repealed by Laws New York 1921, Chapter 307 —Effective April 21, 1921."

§ 231. The council shall have power to collect by civil action any tax imposed pursuant to the provisions of this act against any person from whom it cannot be collected by notice or warrant in the manner hereinbefore provided; but such action shall be commenced within one year after the tax roll is filed with the clerk; and if for any cause any part of the tax authorized by this act cannot be collected the council may add the amount thereof to the moneys authorized by the provisions of this act to be raised in the succeeding year.

§ 232. When a tax imposed pursuant to the provisions of this act against a person, firm, estate or corporation, resident in the county of Niagara, remains unpaid for a period of six months, the city treasruer may apply on affidavit to the county judge of said county and obtain an order requiring such person, firm, estate or corporation to appear before such county judge, or before a referee named in such order, and answer concerning his, their or its property. The same proceedings may in all respects be had as in cases supplementary to execution, and the same costs and disbursements may be allowed against the person, firm, estate or corporation examined concerning his, their, or its property, but none shall be allowed in his, their or its favor. The tax, if collected, shall be paid over to the treasurer and the costs collected shall belong to the party instituting the proceedings and shall be applied by him to the payment of the expenses of the proceeding.

("As amended by Laws N. Y. 1922, Chapter 515—Effective April 6, 1922.")

§ 233. No assessments that shall have been or may hereafter be levied shall be void or shall be vacated by any court because of a failure on the part of the contractor to comply in the execution of the work with all the requirements of law or the contract in respect thereto; provided that if any taxpayer or any owner of property liable to be assessed therefor shall make an affidavit during the progress of any work to the effect that such work is not done or not being done according to law or the contract, specifying in what respect it does not comply therewith, and shall file such affidavit with the city council and deliver a copy thereof to the contractor, his agent or either of the sureties on his bond, and shall within twenty days after the confirmation of the assessment, take the proceedings mentioned in the next section, the court may stay the payment to the contractor of any money under his contract, and if it shall appear on the hearing in such proceedings that the defects stated in such affidavit exist, the court shall order that the amount assessed shall not be paid to the contractor and shall not be enforced by the city until such work shall be done in accordance with the law and the contract therefor, and no interest shall be charged upon the assessment during the time that the payment thereof shall be stayed, provided that the court shall finally decide that the defects charged existed and were of a substantial nature. Whenever it shall in any way appear to the court that manifest injustice or damage has been done to the city or any person or property assessed by reason of a failure to comply with the contract relating to any work, the court may, if it be before sale and before the contractor shall have been paid the sum provided by his contract to be paid to him, reduce the amount of the assessment or allowance in such amount as will enable the owner or the city, as the case may be, to have the work done in accordance with the contract; and if after sale or after the contractor shall have been paid the court shall grant judgment for the damages against the contractor and his sureties as herein provided, the contractor and the sureties on his bond and their legal representatives or such of them as can be served with process or notice, shall be made parties to any proceeding for that purpose, and shall be therein adjudged to

be liable to the party injured or the city, as the case may be, for the amount in which any assessment or allowance shall be reduced if it appear that the contractor was in fault in the premises. If the city was in fault it shall be adjudged to be liable to the party injured for such amount.

§ 234. If, in the proceedings relative to any assessment or assessments for local improvements in the city, or in the proceedings to collect the same, any fraud or defect in the work or substantial error, shall be alleged to exist or have been committed, the party aggrieved thereby may, within twenty days after the completion of the assessment, apply to have the assessment vacated or reduced, to a judge of the supreme court, at special term or at chambers, or to the county judge who shall thereupon, upon due notice to the corporation counsel, and to the contractor and his sureties, or any other person, if they or either of them be proper parties, proceed forthwith to hear the proofs and allegations of the parties.

§ 235. If after such hearing it shall be finally decided that the alleged fraud or defect in the work, or substantial error exists or has been committed, the assessment shall be vacated except as herein othrewise provided, and the lien created thereby or by any subsequent proceding shall, except as herein otherwise provided, cease; and no suit or action in the nature of a bill in equity or otherwise shall be commenced to vacate any assessment in the city or to remove a cloud upon title arising from any assessment hereinafter made. In case the assessment shall not be vacated, the assessment may be reduced or judgment may be given as herein provided. Owners of property shall in proceedings to reduce or vacate or stay payment of assessments be confined to the form of proceeding in this article mentioned. The court may in a proper case in procedings under this article direct that any issue or issues of fact be tried before a jury.

§ 236. It is further provided that no assessment that may be hereafter made shall be void or shall be vacated; nor the sale of property therefor be declared illegal, or the deed or certificate of conveyance therefor be adjudged invalid or illegal, or any moneys paid on account of or because of such assessment be recovered back or refunded because of any error, illegality, irregularity in any of the proceedings in re-

lation to the work or improvement for which such assessment was made prior to the commencement of the work, including the letting of the contract for the work, unless the party objecting thereto shall have filed his objection or objections with the city council within ten days after the letting of the contract for said work, stating the error, illegality or irregularity complained of together with his address; the council shall thereupon give the person or persons filing such objection or objections, together with the contractor to whom the contract to do the work was let, a hearing, and the decision of the council shall be final and conclusive, unless within ten days after such decision the party or parties filing such objection or the contractor or the city shall commence proceedings to review the same, and in the event that the proceedings, or any of them, including the letting of the contract, be adjudged illegal, the contract for doing the work shall be and become null and void, and in no respect binding upon the city.

§ 237. When proceedings are taken because the work has not been done according to law, or the assessment is reduced because the work has not been done according to law or contract, and a certificate of indebtedness or paving warrant for such work or any part thereof shall have been issued, or payments for such work or any part thereof shall have been made, and no objection shall have been filed prior to the issuing of such certificate or payment, the court shall not reduce the assessment below the amount of the certificate or paving warrants issued or payments made and the interest due thereon. Whenever an assessment for any public work or improvement hereafter made shall be vacated or set aside under the provisions of this article, the city assessor shall forthwith proceed to make a new apportionment and assessment for the same, with interest thereon, or for such amount as the court shall by its judgment direct.

§ 238. Either party may appeal from the final decision of the court, or a judge thereof, upon any proceedings taken under this article, the same as from an order in a civil action. Such appeal must be taken within ten days after the service upon such party of notice of such final decision.

§ 239. Two or more persons may unite in commencing

and prosecuting proceedings under this article; and when two or more persons have commenced separate proceedings under this article to vacate or reduce assessments for the same public work or improvement, the court or the judge before whom the same are commenced or pending or where some are commenced before the county judge, and some in the supreme court, a judge of the supreme court at special term or chambers may consolidate such separate proceedings into one proceeding.

§ 239-a. For the purpose of assessing and collecting the school tax of the said city of Niagara Falls, all that portion of the school district of said city lying and being outside of the city limits of said city, shall be treated in the same manner as a ward of said city in all matters pertaining to assessments, levying and the collection of taxes for school purposes, and it shall be known as special tax district of the school district of Niagara Falls. Residents of said special tax district shall be entitled to vote on all matters pertaining to the schools of said city the same as though residents of a ward of said city, and the authorities shall take the necessary steps therefor the same as though said special district were a city ward. The city assessor shall have power to assess and levy all taxes for school purposes on property and persons within said special tax district the same as though said special district were a city ward; and his procedure as to tax rolls, tax notices, hearings and all matters pertaining to the assessing and levying of taxes for school purposes shall be taken accordingly; and confirmation of the school tax rolls by the city council of said city shall be of the same effect as to property and persons within said special tax district as it is to property and persons in the wards of said city. All taxes for school purposes shall be collected on property and persons within said special district the same as on property and persons in wards of said city; and all provisions of the charter of said city and the statutes of the state of New York as to the enforcement of the collection of school taxes within said city shall apply equally to the collection of school taxes within said special district the same as though it were a ward of said city. The time in which the city assessor shall complete the school assessment rolls for said city for the year nineteen

hundred and twenty-eight is hereby extended to March fifteenth, nineteen hundred and twenty-eight. He shall thereupon give notice in respect thereto as required by section one hundred and eighty-nine of chapter five hundred and thirty of the laws of nineteen hundred and sixteen as amended, excepting that said notice shall provide that said rolls may be seen and examined by any person until March fifteenth, nineteen hundred and twenty-eight, and that said assessor will attend each day for one week during said time for the purpose of reviewing his said assessments in the same manner as assessors of towns. This provision shall not be deemed to affect or modify said section one hundred and eighty-nine of said act as to the school tax and assessment roll after the year nineteen hundred and twenty-eight. (As amended by Chapter 174 Laws N. Y. 1928, effective February 29, 1928.)

ARTICLE IX.

DEPARTMENT OF JUDICIARY; CITY COURT; JUSTICES' COURT; POLICE COURT.

Section 240. City court.
241. Council to provide rooms and supplies.
242. Appointment of marshals.
243. Disqualification of judge.
244. Acting city judge.
245. Signature of acting city judge.
246. Powers and duties of marshals.
247. Removal of marshal; marriages; oaths.
248. Jurisdiction of city court.
249. Actions in which court cannot take cognizance.
249-a. Service of process.
250. Proceeding to conform to those of justices of the peace.
251. Transcripts.
252. Judgments.
253. Adjournments.
254. Court fees.
255. Taxable costs.
256. Powers of court to preserve order.
257. Appeals.
258. Powers and duties of clerk of court.
259. Testimony of witnesses about to leave city may be taken.

260. Jury trial.
261. Justice of the peace.
262. Marshals in justices' court.

POLICE COURT.

263. Police court.
264. Acting city judge to perform duties of police judge during absence.
265. Exclusive jurisdiction of police court.
265-a. New Trial when granted by police court.
266. General jurisdiction of police court.
266-a. Police court to have powers of justices of the peace.
267. Jurisdiction of police court.
268. Trial of complaint by nonresident.
269. Justice to attend at police court rooms.
270. Trial jurors.
271. Trial by jury.
272. Compensation of jurors.
273. Disorderly persons.

§ 240. There shall be a city court of civil jurisdiction. The city judge shall be the judge of the court. The court shall be open for the transaction of business each day in the year, Sundays and legal holidays excepted, and upon those days for such purposes as are provided by law.

§ 241. The council of the city shall provide suitable rooms properly furnished for holding court therein; provide for furnishing of the necessary blank books, stationery blanks and other necessary articles for use in said court. The city judge may appoint a stenographer who shall act as clerk of the court, to hold office during the will of the city judge, at a salary to be fixed by the council.

§ 242. The city judge shall appoint three marshals who shall be deemed city officers at the beginning of the municipal year of nineteen hundred and five and every two years thereafter for a term of two years, and they shall receive as full compensation for service the fees allowed by law to constables of towns for like services and such additional compensation as may be fixed by resolution of the city council.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

§ 243. The city judge shall not practice or act as attorney

or counsellor in a court of which he is judge or in any cause originating in that court. A law partner of or person connected in law business with the city judge shall not practice or act as an attorney or counsellor in a court of which the city judge is a judge, or in any cause originating in that court. A law partner or clerk of the city judge shall not practice before him as an attorney or counsellor in any cause, or be employed in any cause which originated before him. The city judge shall not act as attorney or counsellor in any action or special proceeding which has been before him in his official character.

§ 244. The mayor shall designate by an instrument in writing, to be filed with the clerk of the county of Niagara, and acknowledged in due form of law, a duly qualified practicing attorney in said city to perform the duties of the city judge when the city judge is absent from the city, or for any reason is unable to perform his duties, or in case he shall be disqualified to perform the same. The city judge shall be deemed disqualified to act in any case where a supreme court judge, under like circumstances, would be disqualified, were the same one in which the supreme court had jurisdiction. Such person so designated must be an attorney of the supreme court of the state of three years' standing, and such designation shall be for the term of two years, beginning January first, nineteen hundred and five; and in case of any vacancy the same shall be filled only for the balance of the term in which the vacancy occurs. Said person so designated shall be subject to all the requirements and liabilities of the city judge pertaining to the discharge of his duties, except that he shall not thereby be deprived of his right to practice in any court because of such designation. And said person so designated shall receive for such services rendered pursuant to this provision the same rate of compensation as the city judge. The acting city judge shall present an itemized and verified bill of his said services, within thirty days after the rendition thereof, to the city auditor and such bill shall be audited and paid in the same manner as other claims against said city. The amount so paid to the acting city judge shall be deducted from the salary of the city judge, except that the latter shall be entitled to fifteen days' vacation in each

year without loss of pay, and except during such period as the city judge may be unable, by reason of illness or disqualification, to perform the duties of his office, which latter period shall not exceed fifteen days in any one year.

§ 245. In signing all papers in the course of his official duties, said appointee shall add the words "acting city judge" and in case any warrant, summons or mandate issued by said city judge shall be returned during his absence from the city, or inability, or in case the said city judge is disqualified to act therein, further proceedings upon said warrant, summons and mandate may be had before said appointee, designated as aforesaid; and said appointee having once obtained jurisdiction over any matter under this section, may, in case the trial shall have been commenced and evidence or testimony taken, retain it and proceed to the determination thereof.

§ 246. The marshals of the city court shall be and act as attendants upon the court during its session, and shall possess, in actions or proceedings, all the powers and be under all the obligations and duties of constables in the towns of the state, and of constables in cities as now provided. They shall hold their office for two years, unless sooner removed. Every marshal so appointed shall execute and file in the county clerk's office a bond, with at least two sureties, to be approved by the judge of the court, to the people of the state of New York, in the penal sum of one thousand dollars, conditioned for the faithful performance and discharge of his duties, in which bond he and his sureties shall jointly and severally agree to pay to every person who may be entitled thereto all sums of money which the marshal shall become liable to pay on account of any execution which shall be delivered to him for collection, and shall also jointly and severally agree to pay every person any damage which he may sustain from or by any act or thing done by the marshal, by virtue of his office. The judge of the court shall have power to make such rules and regulations, to be entered in full upon the docket of the court, concerning the attendance and duties of the marshals as attendants upon the court as he may deem necessary and proper, and a violation of such rules and regulations by the marshals is hereby constituted a cause for suspension or removal from office, as herein provided. The fees of each

marshal shall be the same as provided by law for constables rendering similar services, and shall be paid in the same manner. The marshals shall neither receive nor be entitled to any salary or compensation for services rendered as court attendants, unless such salary or compensation shall be fixed by resolution of the city council. Hereafter no constable shall be elected in the city.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

§ 247. The judge of the court shall have power to remove any marshal, upon complaints as is provided by law for the removal of a constable of a town. The judge shall hear and determine the complaint and the same proceedings shall be had by and before him as are provided by law to be had by and before three justices of the peace of a town for the removal of a constable. The judge is hereby authorized to solemnize marriages. He shall also have power to take oaths and acknowledgments with the same force and effect as a justice of the peace. He may command the services of any marshal of the city to enforce the authority of the court and to maintain the peace.

§ 248. The court shall have jurisdiction of the following actions and proceedings, when any person a party thereto is a resident of the city, whether commenced by summons, warrant, attachment or other process.

1. An action to recover damages upon, or for breach of contract, express or implied, other than a promise to marry, where the sum claimed does not exceed one thousand dollars.

2. An action to recover damages for a personal injury, or an injury to property, where the sum claimed does not exceed one thousand dollars.

3. An action upon a bond, conditioned for the payment of money, where the sum claimed to be due does not exceed one thousand dollars.

4. An action upon a surety bond, taken in the court, or by any justice of the peace, where the sum claimed does not exceed one thousand dollars.

5. An action upon a judgment rendered in the city court or in a court of a justice of the peace, or in a district court, or in a justice court of a city, being a court not of record.

6. An action to recover one or more chattels, with or without damages, for the taking, withholding or detention thereof, where the value of the chattel or all of the chattels at stated in the affidavit made on the part of the plaintiff does not exceed one thousand dollars.

7. To render judgment upon the confession of a defendant or defendants as prescribed in title six, chapter nineteen of the code of civil procedure, where the sum confessed does not exceed one thousand dollars.

8. An action for damages for fraud, in the sale, purchase or exchange of personal property, if the damages claimed do not exceed one thousand dollars.

9. An action commenced by attachment, pursuant to the provisions of article four of title two of chapter nineteen of the code of civil procedure, if the debt or damages claimed do not exceed one thousand dollars.

10. The summary proceedings, under title two of chapter seventeen of the code of civil procedure, to recover possession of land and to remove tenants and others therefrom where the land is situated in the city.

11. In actions or proceedings under any statute for the enforcement of liens of mechanics and others, where the amount of the lien does not exceed one thousand dollars, under the same proceedings as are provided by law to be had in justice's courts, and the summons and complaint may be served anywhere within the state.

12. In proceedings in cases of bastardy.

13. In proceedings to recover a penalty for the violation of any ordinance of the city.

14. In any other action or civil proceeding of which justices of the peace of towns now have jurisdiction.

15. In an action against an executor or administrator, as such, where the amount of the claim is less than the sum of one thousand dollars and the claim has been duly presented to the executor or administrator and rejected by him.

16. Said court shall have concurrent jurisdiction with the police justice in all criminal actions under title sixteen of the penal code relative to cruelty to animals and shall have all the powers and perform all the duties in relation to such actions conferred upon police courts and courts of special ses-

sions by the penal code and the code of criminal procedure.

§ 249. Such court cannot take cognizance of a civil action in either of the following cases:

1. Where the title to real property comes in question, as prescribed in title three of chapter nineteen of the code of civil procedure. But when such question arises, the pleadings and practice shall be the same as are now provided by law, for justices' courts, in regard thereto.

2. Where the action is to recover damages for false imprisonment, libel, slander, criminal conversation, seduction or malicious prosecution, or where it is brought under sections eighteen hundred and thirty-seven, eighteen hundred and forty-three, eighteen hundred and sixty-eight, nineteen hundred and two or nineteen hundred and sixty-nine of the code of civil procedure.

3. Where in the matter of account, the sum total of the accounts of both parties, proved to the satisfaction of the court, exceeds two thousand dollars.

4. Where the action is brought against an executor or administrator, as such, except where the amount of the claim is less than the sum of one thousand dollars and the claim has been duly presented to the executor or administrator and rejected by him.

§ 249-a. The process shall be served within the city and shall be made returnable before the court, by its proper title, and shall be substantially in the form and returnable within the times prescribed for courts of justices of the peace, and shall be signed by the judge, clerk or deputy clerk of the court.

§ 250. The process, service of the same, appearance, practice, pleadings and proceedings in the court and in appeals therefrom, judgments by confession, offers of compromise, fees, costs and disbursements shall, except as herein otherwise provided, be governed by the provisions of the code of civil procedure in regard to courts of justice of the peace, including the provisions of chapter four hundred and fourteen of the laws of eighteen hundred and eighty-one and the acts amendatory thereof, in relation to the service and making of verified pleadings in justices' courts. The precept, practice, pleadings and appeal in the summary proceedings

shall be governed by the provisions of the code of civil procedure relating thereto, except that the petition must be filed with, and the precept issued by the clerk, deputy clerk or the judge of said court, and made returnable before the court, and proceedings thereon subsequently had in said court before the judge thereof, and upon final order made in favor of the petitioner, the warrant may be issued by the clerk, deputy clerk or by the judge of said court, and if a jury be demanded it shall be drawn and summoned in the manner hereinafter provided. Proceedings and practice in cases of bastardy and appeals therefrom shall be governed by the provisions of the code of criminal procedure in relation thereto, except that such proceedings may be held and conducted by the judge of the court with the same force and effect as if two magistrates were present. The judge may from time to time, make, alter and amend the rules of practice, not inconsistent with the provisions of law. Such rules or alterations or amendments shall not take effect, however, until a copy thereof signed by the judge of the court, and endorsed with the approval of a justice of the supreme court, shall have been filed in the office of the clerk of the county, and until such copy, with the endorsement, shall have been published at least once in the official newspaper of the city. The appearance of an attorney or counsellor at law of the supreme court of this state, on behalf of any party to any action or proceeding pending in the city court, may be made by filing with the clerk of the court a notice of appearance, and shall have the same force as if such appearance had been made in a proceeding pending in the supreme court, and a judge before whom a trial is had shall have the power to direct a verdict in an action tried before a jury and to grant a new trial of the action or proceeding, for any of the reasons specified in section nine hundred and ninety-nine of the code of civil procedure, upon such terms as may be just. It or the judge thereof may also entertain motions and make orders in any action or proceeding of which it has or has had jurisdiction, in the same manner as may be done in the supreme court. The court shall have power to open defaults and to set aside judgments entered thereon; and pending an application for such purpose to stay execution issued thereon. The filing of

a transcript of the judgment in the county clerk's office shall not prevent the court from exercising said power. Any action or proceeding pending in said court may be discontinued by filing with the clerk of said court a stipulation to that effect signed by the parties or their attorneys, and by paying said clerk all the fees of said court, including the marshal's fees. If notice of a motion or of any proceedings before the court or the judge thereof be necessary, it shall be served upon the party, or his attorney, at least five days before the time appointed for the hearing, unless the court or the judge thereof, upon an affidavit showing grounds therefor, makes an order to show cause why the relief asked for should not be granted and in the order directs that service thereof less than five days before it is returnable be sufficient. A motion for a new trial upon the minutes in a case tried before a jury must be made at the close of the trial or at such other time as the rules may provide. Judgment upon the trial of an action on the merits before a judge without a jury must be rendered within ten days after the same has been finally submitted. Every action and proceeding brought in the court shall be called at the time specified in the mandate or process by which it is commenced, or as soon thereafter as the business of the court will permit, and section twenty-eight hundred and ninety-three of the code of civil procedure shall not apply to such action or proceeding.

§ 251. All the powers now given by law to justices of the peace of towns, to issue executions, or to give transcripts, are hereby given to the judge, clerk or deputy clerk of the court.

§ 252. A judgment of the court shall be in all respects the same as a judgment rendered by a justice of the peace of towns, and all provisions of the code of civil procedure in relation to filing transcripts of such judgments, and docketing the same, in the office of the clerk of the county of Niagara, or of any other county, and the effect thereof shall in all respects be the same, except as herein otherwise provided, as if the judgment was recovered before a justice of the peace of a town.

§ 253. The court may, in its discretion, grant one or more adjournments of the trial of an action or the hearing of a

motion, or other proceeding, for such times and upon such terms as it may deem just, unless the defendant has been arrested, in which case no adjournment shall be made without his consent. Any action or special proceeding may be adjourned after issue has been joined by a stipulation signed by the parties or their attorneys, and filed with the clerk of the court.

§ 254. There shall be paid to the clerk or deputy clerk of the court the following sums only as court fees in a civil action: Upon the issuing of a summons, in an action for twenty-five dollars or under, twenty-five cents; in an action for more than twenty-five dollars and less than fifty dollars, fifty cents; in an action for fifty dollars or more, but less than five hundred dollars, one dollar; in an action for five hundred dollars or more, two dollars; for issuing a writ of replevin, writ of attachment, or an order of arrest, fifty cents; for issuing a commission, twenty-five cents; upon demand of a trial by jury, five dollars; for a trial of an issue of fact or law, fifty cents, and where the trial shall take more than one day, twenty-five cents additional for each day occupied; for making a return upon an appeal from a judgment or order, two dollars; and where it shall be necessary upon appeal to make return of the evidence taken upon the trial five cents for each folio of one hundred words contained in the return in excess of fifty folios. In summary or special proceedings, including bastardy proceedings, the fees shall be the same as are now allowed by law to justices of the peace. The clerk or deputy clerk shall require prepayment of such fees; provided, however, if any person shall satisfy the judge, by affidavit, which affidavit must be in writing and filed with the court, that he has a good and meritorious cause of action for a money claim against another within the jurisdiction of the court, and that he has made a personal demand for the payment thereof of the debtor, and that such payment has been refused; and shall therein also state the name and residence of the debtor, and the amount due over and above all legal set-offs, and that the applicant is unable to pay the fees therefor, the judge to whom such affidavit is presented may, in his discretion, endorse on such affidavit directions to the clerk or deputy clerk to issue the proper process returnable before him, without

charging for court fees; but the applicant in such case shall pay in advance the fees of the marshal for service of such process. All fees paid into the court or included in any judgment rendered therein, except marshal, jury and witness fees, shall belong to the city, and no such judgment shall be satisfied until the fees are paid into the court. Fees prepaid by either party, recovered by a judgment in his favor and paid into the court, shall be refunded to him.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

§ 255. In all civil actions and proceedings in the court the successful party shall tax and recover all fees paid by him, or which he will necessarily incur. In addition thereto there shall be allowed to a party in case he has appeared by an attorney of the supreme court, and not otherwise, the following sums as costs:

1. For all proceedings before trial, including judgment for plaintiff upon default, in case the amount of recovery be thirty dollars or less, to the plaintiff, ten per centum of such amount; in case the recovery be more than thirty dollars and not more than two hundred and fifty dollars, five dollars; in case the recovery be more than two hundred and fifty dollars, and not more than five hundred dollars, seven dollars; in case the recovery be more than five hundred dollars and not more than seven hundred and fifty dollars, ten dollars; and in all other cases, twelve dollars.

2. If judgment be for plaintiff, otherwise than upon default, an additional sum equal to ten per centum of the recovery not exceeding twenty-five dollars.

3. If the plaintiff recover judgment in an action for the recovery of one or more chattels, the foregoing sum allowed as additional costs shall be estimated upon the value of such chattels as assessed by the court or jury.

4. If a judgment be rendered for the defendant by default, to the defendant, in a case where the amount demanded in the complaint is thirty dollars or less, ten per centum of such amount; in a case where the amount demanded in a complaint is more than thirty dollars and not more than two hundred and fifty dollars, five dollars; in a case where the amount demanded in the complaint is more than two hundred

and fifty dollars and not more than five hundred dollars, seven dollars; in a case where the amount demanded in the complaint is more than five hundred dollars and not more than seven hundred and fifty dollars, ten dollars; in a case where the amount demanded in the complaint is more than seven hundred and fifty dollars, twelve dollars; and where there is no complaint, three dollars.

5. If judgment be rendered for the defendant, after trial, to the defendant, ten per centum upon the amount claimed in the complaint, not exceeding, however, twenty-five dollars.

6. A defendant who recovers judgment upon a counterclaim for a sum greater than that claimed by plaintiff shall be allowed ten per centum on the amount so recovered, not exceeding twenty-five dollars; and in such case he shall be allowed no other costs except his disbursements.

7. No costs or fees shall be allowed and recovered in an action brought upon a judgment of a court of this state, unless such action is brought more than five years after recovery of the judgment sued on.

8. Costs, upon a motion in any action or proceeding, not exceeding three dollars, may be awarded either absolutely or to abide the event of the action or proceeding, to any party, in the discretion of the court or judge. Such costs, or costs awarded under section four hundred and thirty-seven of this act, may be included in the final judgment, or if not so included may be enforced in accordance with the provisions of section seven hundred and seventy-five of the code of civil procedure.

§ 256. The judge holding the court while in session shall have the same powers to preserve order and to punish for contempts committed in his presence as are possessed by judges of courts of record; provided, however, that an appeal may be taken from an order adjudging a person in contempt to the county court in the same manner as an appeal from a judgment. Pending the determination of such appeal the person adjudged in contempt, if he shall be imprisoned, may be admitted to bail by any judge of the court or of the county court, in such an amount and by an undertaking in such form and terms and with such sureties as shall be approved by the judge.

§ 257. Appeals may be taken from any judgment or final order rendered in the court to the county court of the county of Niagara in the same manner and with like effect as appeals are taken from judgments obtained in justices' courts except as otherwise provided herein. An appeal may also be taken to the same court from an order granting a motion for a new trial. Such appeal must be taken within ten days after service of the order appealed from and notice of entry thereof. It shall be taken in the same manner as an appeal from a judgment and all subsequent proceedings therein shall be conducted as near as may be in like manner as in such an appeal. The appellate court may grant costs, not exceeding ten dollars, to the successful party on such appeal. The order of the appellate court shall be remitted to the city court to be enforced. For the purpose of an appeal to the appellate division of the supreme court, the order of the county court made on an appeal from an order shall be deemed an order of the county court, except that the order or judgment made by the appellate division of the supreme court shall be certified and remitted to the city court to be enforced. Upon an appeal from a judgment, the appellate court upon its reversal may, in its discretion, order a new trial before the judge of the city court, at a time designated, and in such case the costs of the appeal shall be in the discretion of the appellate court, and any and all costs may be by it directed to be included in any subsequent judgment in the same action in the same court. Any decision or opinion in writing filed by the judge of the city or county court shall, upon appeal, be returned as a part of the record of the proceedings. Costs required to be paid to perfect an appeal under section three thousand and forty-seven of the code of civil procedure shall not include the costs awarded a party under section two hundred and fifty-five of this act; but upon judgment affirming the judgment appealed from, or upon the plaintiff or defendant being entitled to recover costs upon a new trial had in the appellate court, such costs may be included therein, except that the per centum allowed under subdivisions two, three, five and six of section two hundred and fifty-five of said act shall be computed upon the amount of damages awarded, or the value of the chattels recovered in the judgment of the appellate court.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

§ 258. The clerk and deputy clerk, if there be one, of the city court, shall hold office during the pleasure of the judge and shall each give a bond to the city for the faithful performance of the duties of their respective offices, in such form and for such sum and with such sureties as shall be approved by the council, and file the same with the city clerk of the city. It shall be the duty of the clerk to keep in the docket of the court a complete and accurate record of all processes issued by and returned to the court, and of all proceedings in any action or proceeding brought in the court, and to enter therein the judgment and decision of the court; and the docket shall be evidence in the courts of this state the same as the docket of the court of a justice of the peace. The clerk may make and certify in the form provided by law for clerks of courts of record of this state, copies of the entries in the docket and of all papers filed in the court, and he shall have power to take oaths and acknowledgements the same as a justice of the peace. He shall keep an accurate account of the fees, fines and other moneys received, from whom received and the time of receiving the same, and at the end of each week shall deposit the amount thereof with the city treasurer together with a detailed statement of the items thereof, which statement shall be verified by him. It shall also be his duty to take the minutes and testimony in all actions and proceedings tried in said court in shorthand, and to transcribe the same in long hand or typewriting upon the request of either party or of an attorney for either party to any such action or special proceeding for their inspection, without any fee or charge therefor, and file the same with the court. He shall have power in the absence of the judge to adjourn an action or proceeding returnable or pending before the court, for a period not longer than the city judge might have done. He shall take the disposition of witnesses so far as he is able before the police justice in cases triable after indictment whenever requested so to do by the police justice or district attorney. The clerk shall also have power to issue and serve subpoenas, to administer oaths to witnesses, to make and sign executions, commitments and certificates of conviction and to certify to

and sign copies thereof for the execution of any judgment rendered in the city court.

§ 259. Whenever any action pending in said court shall have been commenced by the actual service of process, or where the defendant shall have appeared in the action, either party may take the testimony of any witness who is about to leave the county or any county adjoining said county in which said action is pending, and who will be absent when the testimony is required, conditionally, to be used on the trial of such action; such testimony shall be taken in the same manner provided for in an action pending in the supreme court.

§ 260. At the time when issue of fact is joined or on the first adjourned day, in a civil action or summary proceeding in the city court either party may demand a trial by jury and unless so demanded a trial by jury is waived. When a trial by jury is demanded as above provided, the city judge must forthwith openly draw such number of ballots as he deems necessary, from the box or other receptacle, containing the names of the persons who are returned as jurors of the city, as provided by law, for the purpose of trying the issue joined as above stated at a time to which the cause in which issue has been joined shall be adjourned. But such adjournment shall not be for a longer period than eight days from the joinder of issue, unless the parties consent to a longer adjournment, which consent shall be entered in the minutes of the court. Before drawing such ballots they shall be thoroughly mingled in the box or other receptacle containing them. Therefore, except as herein otherwise provided and so far as consistent with this act, the provisions of sections twenty-nine hundred and ninety-two, twenty-nine hundred and ninety-three, twenty-nine hundred and ninety-four, twenty-nine hundred and ninety-five, twenty-nine hundred and ninety-six, twenty-nine hundred and ninety-seven, twenty-nine hundred and ninety-eight, twenty-nine hundred and ninety-nine, three thousand and six, three thousand and seven, three thousand and eight, three thousand and nine of the code of civil procedure, shall govern the further proceedings upon the issue joined as above provided. The judge of said court shall have the powers and duties conferred and

imposed upon the justices of the peace under those sections. The venire must be issued to one of the city marshals who shall have all the powers and duties of constables under those sections. Jurors in the city court shall receive the same compensation as jurors in justices' courts held by justices of the peace.

§ 261. The justice of the peace shall have and keep an office for the transaction of his official business in said city. He shall have and exercise all powers and authority and discharge all the duties and be entitled to all the fees and compensation of justices of the peace of the several towns in this state except that he shall have no jurisdiction of any criminal matter arising within said city nor of any civil action wherein the defendant or defendants reside within said city and except as otherwise modified herein. He shall have the same territorial jurisdiction as if said city constituted a part of the town of Niagara and before entering upon the duties of his office he shall give a bond in the penal sum of one thousand dollars conditioned that he shall faithfully pay over on demand to the person, firm or corporation entitled to the same all moneys that may come into his hands as such justice and a neglect to give such bond for ten days after the time for entering upon the duties of his office shall vacate said office.

§ 262. The marshals of the city court shall in all civil actions and proceedings before justices of the peace have and possess the same powers and be subject to the same duties as are by law given to or imposed upon constables of towns and shall receive the same fees.

§ 263. There shall be a court of criminal jurisdiction to be known as the police court, with the jurisdiction and powers hereinafter provided and there shall be one justice of this court. The police justice shall appoint a clerk and stenographer, at a salary to be fixed by the city council, the duties of each to be prescribed by the police justice, both positions to be held by one and the same person, however, until such time as the business of the police court requires the services of two persons to fill such two positions, at which time the city council may authorize the employment of an additional person.

Under the direction of the police justice, said clerk may issue a summons or warrant of arrest in all cases in which the police justice is empowered to issue summonses or warrants of arrest pursuant to the provisions of section one hundred and fifty of the code of criminal procedure.

("As amended by Laws of New York, 1931, Chapter 513, —Effective April 21, 1931.")

§ 264. In the absence or inability of the police justice, or in the case of a vacancy in his office the person designated as in this act provided as the acting city judge shall perform the duties of such police justice. The acting city judge shall be subject to all the requirements and liabilities of the police justice pertaining to the discharge of his duties, except that he shall not thereby be deprived of his right to practice in any court by reason thereof. And said acting city judge shall receive for his services rendered pursuant to such provisions the same rate of compensation as the police justice. The acting city judge shall present an itemized and verified bill of his said services within thirty days after the rendition thereof, to the city clerk and such bill shall be audited and paid in the same manner as other claims against the city. The amount so paid to the acting city judge shall be deducted from the salary of the police justice, except that the latter shall be entitled to fifteen days' vacation in each year without loss of pay, and except during such period as the police justice by reason of illness, disqualification, or other duties connected with his office, may be unable to perform the duties of his office, which latter period shall not exceed fifteen days in any one year, but for good cause shown, the city council may extend such period to such time as is just, proper and reasonable. The provisions of this section shall be construed so as to authorize the city council to direct the payment to the police justice of his regular salary for the period during the year nineteen hundred thirty that he was unable to perform the duties of his office on account of illness.

In the absence or inability of both the police justice and the acting city judge, the mayor shall designate a duly qualified practicing attorney in said city to perform the duties of such police justice, as police justice pro tempore, which designation shall be in writing, and be immediately filed with the

city clerk. The police justice pro tempore shall be vested with all the powers and duties and shall be subject to all the requirements and liabilities of the police justice pertaining to the discharge of his duties during the continuance of such absence or inability, but he shall not be deprived of his right to practice in any court by reason thereof. For his services rendered pursuant to such provisions, the police justice pro tempore shall receive compensation at the same rate and in the same manner that compensation is payable to the acting city judge for the services rendered by him.

("As amended by Laws of New York, 1931, Chapter 513 —Effective April 21, 1931.")

§ 265. The police court shall, in the first instance, have exclusive jurisdiction to try and determine all offenses of which the courts of special sessions have or shall have exclusive jurisdiction, when such offenses are committed within the city. He shall have exclusive jurisdiction to try and determine all complaints and charges for violations of the city ordinances, and shall have the power and jurisdiction now or hereafter conferred upon courts of special sessions by section fifty-six of the code of criminal procedure, and shall also have exclusive jurisdiction, in the first instance, to try, for any other misdemeanor committed in the city, any person who is first brought before said court or police justice charged with such offense. Said court shall have power upon conviction for a misdemeanor, to impose a sentence of imprisonment not exceeding one year, or a fine not exceeding five hundred dollars, or both such fine and imprisonment, with further imprisonment, if such fine is not paid, not exceeding one day for each dollar thereof unpaid, except where a different punishment is by law prescribed for such offense. But any charge of misdemeanor pending before said police court or justice may be removed to a court sitting with a grand jury by the same method now or hereafter provided in sections fifty-seven and fifty-eight of the code of criminal procedure; but a complaint or charge for a violation of a city ordinance shall not be removed. Subject to the provisions of section five hundred and fifty-two of the code of criminal procedure, when the defendant has been held to answer, as provided in section two hundred and eight of the code of criminal

procedure, the police justice may admit the defendant to bail in all cases where bail may be taken before conviction, as provided in section five hundred and fifty-four of the code of criminal procedure, notwithstanding the restrictions contained in section five hundred and fifty-seven of the code of criminal procedure.

("As amended by Laws of New York, 1931, Chapter 513 —Effective April 21, 1931.")

§ 265-a. Notwithstanding the provisions of section four hundred and sixty-six of the code of criminal procedure, or any other law, general or special, limiting the time within which application for a new trial of a criminal charge may be made, the police court, under circumstances deemed by it to be extraordinary, may grant a new trial of an issue of fact heretofore determined, within two years after such determination.

("As amended by Laws N. Y. 1923, Chapter 759—Effective May 24, 1923.")

§ 266. The police justice shall also possess all the powers and jurisdiction of a magistrate, which are or may be conferred by law upon justices of the peace, concerning offenses committed within the city. He shall possess such other powers and perform such other duties as are now or may be conferred or imposed by law.

("As amended by Laws N. Y. 1920, Chapter 632—Effective May 10, 1920.")

§ 267. The police justice shall also possess the powers and perform the duties of justices of the peace of towns in cases of bastardy. Such proceedings shall be governed by the provisions of the code of criminal procedure except that they may be held and conducted before the police justice, with the same force and effect as if two magistrates were present.

§ 268. Whenever complaint in writing, on oath, shall be made before the police justice or acting police justice of said city by a nonresident of the county of Niagara, setting forth that such complainant is a nonresident of said county, and that an offense has been committed by any person in said city, such offense being a misdemeanor and triable before said police justice, such police justice shall thereupon issue his warrant for the arrest of such offender, who shall be brought before

the police justice issuing the warrant, who shall proceed to the trial of such complaint in the manner prescribed by the code of criminal procedure excepting that sections fifty-seven and fifty-eight of said code of criminal procedure shall not be applicable to such cases, and the police justice may proceed to try and determine the charges set forth in such complaint without granting the adjournment required by section fifty-eight of said code, and shall not be deprived of jurisdiction to try the same by the giving of bail as provided by section fifty-seven of said code.

§ 269. It shall be the duty of the police justice to be present at the police court rooms at such times and for such hours as the public interests may require, unless necessarily detained therefrom.

§ 270. Whenever a list is made by the proper officer or officers of the persons who are required to serve as jurors in the courts of record to be held in the county in which the city is situated, a duplicate of such list shall be filed by such officer or officers with the city clerk. The clerk shall immediately make a copy from such list of all the names of jurors therein who are residents of the city, and file it with the police justice.

§ 271. In the police court at the time of interposing any plea which forms an issue of fact, or on the first adjourned day the defendant may demand a trial by jury and unless so demanded a trial by jury shall be waived. When a trial by jury is duly demanded as above provided, the police justice must forthwith openly draw such number of ballots as he deems necessary from a box or other receptacle, containing the names of the persons who are returned as jurors for the city for the courts of record for the county upon the last list thereof filed in such court by the city clerk as above provided, as jurors to attend for the purpose of trying the issues joined as above stated at a time to which the cause in which issue has been joined shall then be adjourned by him not more than eight days, unless the parties consent to a longer adjournment, which consent shall be entered in the minutes of the court. Before drawing such ballots they shall be thoroughly mingled in the box or receptacle containing them. Thereafter except as otherwise provided herein, and as far as consistent with

this act, the provisions of sections twenty-nine hundred and ninety-two, twenty-nine hundred and ninety-three, twenty-nine hundred and ninety-four, twenty-nine hundred and ninety-five, twenty-nine hundred and ninety-six, twenty-nine hundred and ninety-seven, twenty-nine hundred and ninety-eight, twenty-nine hundred and ninety-nine, three thousand and six, three thousand and seven, three thousand and eight, and three thousand and nine of the code of civil procedure shall govern the further procedings upon the issue joined as above provided. The police justice shall have all the powers and duties conferred and imposed upon justices of the peace under those sections. The venire must be issued in criminal cases to a police officer, who shall have all the powers and duties of constables under those sections. This section shall not apply to the trial of actions provided for in section four hundred and sixty-five of said act.

§ 272. Jurors in the police court shall receive the same compensation as jurors in justices' court held by justices of the peace.

§ 273. **Disorderly persons.** The following persons within the city of Niagara Falls, in addition to the persons described in section eight hundred and ninety-nine of the code of criminal procedure, are disorderly persons:

1. All idle persons, who not having visible means to maintain themselves, live without employment.

2. All persons wandering about and begging, or who go about from door to door or place themselves in the street, highways, passages or public places without written permission of the mayor of the city to beg and receive alms.

3. All common prostitutes and common gamblers.

4. All persons found quarreling within said city in any public park, street, lane or alley, or in any public place.

5. Any person who shall within said city make indecent gestures or exhibitions of himself or herself in public view.

6. Persons who shall in any public place publicly use indecent, foul or profane words, or opprobrious, insulting or provoking language or outcries tending to a breach of the peace or utter threats or unlawful violence, or shall make an unusual noise or disturbance of the public peace and quiet, or shall recklessly and without necessity discharge and fire off

firearms in the day or night time, or knowingly give a false alarm of fire.

7. Persons who shall alone or with others, not using the public ways of said city to pass and repass, lounge and loiter about, standing on or occupying the sidewalks on any public place in front of or along any premises or building, public or private, not owned or occupied by such person; or without any right in or about the approaches, passage, entry hall or stairway of any building used for public assemblages or public resort to the annoyance or impediment of persons lawfully passing and repassing, or of property owners, and shall refuse, after direction of any officer or citizen, to pass along or disperse from said place or places.

8. Persons who shall disturb or interrupt any public meeting, school, concert, theater, or public exhibition or any assemblage without lawful authority.

9. Persons who shall be found in the night time lurking suspiciously around any place in said city and shall refuse on demand of any policeman or watchman to give an account of himself or herself.

10. Persons who shall be found carrying in any public place any loaded pistol, revolver, or other firearm concealed, without lawful authority to do so.

11. Persons who shall be a truant child under the age of fourteen years and be found wandering about late at night alone or in company with like persons.

12. Persons who shall maliciously or unlawfully open or enter any barn, stable, or inclosure, and take away therefrom, or from any other place in said city, any horse, team, harness, carriage or other vehicle of another, under circumstances not making said offense larceny or felony.

13. Persons who shall be found engaged in any public place aforesaid throwing stones or other missiles and endangering persons or property.

14. Persons who wantonly or maliciously injure any tree or public gas or electric lamp, lamp post, wire, gas pipe or main, or any water pipe, main, hydrant, hose or other works or apparatus, for the extinguishment of fires, including the electric fire alarm apparatus or police patrol system, or boxes,

wires, posts or other apparatus thereto, or any street corner sign put up by authority of the city council.

15. Persons who shall be found naked or with persons improperly exposed bathing in any of the canals, basins, streams, races, ponds or waters in said city in any public place, or within sight of the public between the hours of four in the morning and nine o'clock in the evening.

16. Persons who have no visible occupation, profession or business to maintain themselves by, but who do for the most part support themselves by gaming or crime or by the avails of prostitution.

Every disorderly person under the provisions of this section shall be guilty of a misdemeanor, and on conviction thereof, shall be punished by a fine, not exceeding fifty dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment.

ARTICLE X.

DEPARTMENT OF LAW.

Section 274. Corporation counsel.
275. Deputy corporation counsel.
276. Compromise of claims.
277. Employment of counsel.
278. When a judgment against city to be paid.
279. Substitution of attorneys of record upon appointment of new counsel.
280. Corporation counsel to examine claims for personal injuries.

§ 274. It shall be the duty of the corporation counsel to act as sole legal adviser to the city council and the several officers, boards, bureaus and departments of said city unless otherwise specially directed by the city council. He shall be the head of the department of law in said city and subject to the direction of the city manager he shall have control and direction of the subordinates and employees of said department. He shall, without additional compensation, under direction of the city manager, take charge of the interests of and appear for said city in all actions and proceedings in all courts and governmental departments and before all committees and hearings in which the city is interested; and shall institute or prosecute such suits and other proceedings in court as the

city manager, under direction of the city council, shall require. All moneys recovered by him in any suits or proceedings shall be forthwith accounted for and paid over by him to the city treasurer. He shall keep an accurate register and record of all suits and proceedings and an accurate account of all moneys received or paid out by him. He shall report to the city manager as to the condition of his department with such recommendations as he sees fit, whenever required so to do by the city manager or the city council. No suit or proceedings shall be discontinued or compromised by him except upon the direction of the city manager approved by the city council. All fees recovered by him in any suit or proceeding shall belong to the city and be paid over by him to the city treasurer, any provision of the statutes of the state of New York to the contrary notwithstanding. He shall discharge such other duties requiring legal knowledge and ability as may be required of him from time to time by the city manager or by direction or resolution passed by the city council.

§ 275. It shall be the duty of the deputy corporation counsel to discharge the duties of the corporation counsel in the absence of that officer, or in case of his inability to act, and to perform such other duties as may be required of him by the corporation counsel, city manager or city ordinances appertaining to his office.

§ 276. The corporation counsel, upon approval of the city council, may enter into a written agreement or stipulation to compromise and settle any claim against the city for injury to person or property due to the negligence of the city unless otherwise specially provided by statute or ordinances of said city, which agreement, when approved by the city council, shall be and constitute a valid obligation against said city. The amount therein provided to be paid shall, with interest thereon at the rate of six per centum per annum from its date, be included in the next city tax budget and when raised by tax be paid to the claimant. If, however, before the adoption of the city tax budget there shall be received by the city treasurer from any source any moneys not otherwise appropriated, the amount of said agreement to be paid shall be paid out of such moneys so received so far as they will satisfy the same. When any claim has been compromised and settled as afore-

said the said city shall issue certificates of indebtedness to the claimant, bearing interest at the rate of six per centum per annum payable out of the next tax levy. The certificates shall be signed by the mayor and city clerk and countersigned by the city treasurer in the same manner and form as provided for issuing other certificates of indebtedness of said city.

§ 277. The corporation counsel, with the consent of the council, may employ counsel at such compensation as may be agreed upon by the council to assist him in the argument and conduct of important cases or proceedings in which the city is interested or a party.

§ 278. The amount of any judgment recovered against the city, and payable by it remaining unpaid, with interest due thereon, in case no appeal is intended to be taken, or in case such judgment is finally affirmed on an appeal taken, shall be reported by the corporation counsel immediately after the same shall have become payable to the council; and such amount shall be raised in the next levy of taxes for the expenses of the city, unless execution upon such judgment shall be stayed. Such judgments shall be paid out of the first moneys paid into the city treasury on account of such levy in the order of their recovery. Until the money so raised shall be paid into the treasury and payment of judgments refused, no execution shall issue against the city unless the amounts of such judgments shall not have been included in the tax levy; provided, nevertheless, if there be any moneys in the treasury to the credit of a fund derived from the revenue of the city other than taxation not otherwise appropriated sufficient to satisfy such judgments, the council shall direct the payment therefrom of such judgments in the order of their recovery.

§ 279. Upon taking office the corporation counsel shall be deemed to be substituted as attorney of record in all actions or proceedings in which the city or any of its departments is a party, and it shall not be necessary to enter any order to that effect.

§ 280. It shall be the duty of the corporation counsel to cause all claims for personal injuries or damages to property to be thoroughly investigated, and he shall advise the proper

committees of the city council in respect thereto. He shall have power to issue a subpoena to compel attendance of persons to appear and testify before the council or some member thereof in respect to such claims pending before the council or referred to committee. He shall have power to issue a subpoena to compel the attendance of all persons making such claims or reported to have knowledge of the facts relating to such claims to appear and testify before the city council or some member thereof in respect to such claims pending before the city council or referred to a committee, and he shall have power to issue a subpoena to compel the attendance of all persons having knowledge of the facts relating to intended claims against said city, notice of intention to make which against said city or to bring suit thereon against said city has been filed with the corporation counsel of said city, and to examine such persons before the city council or some member thereof in respect thereto, or in respect to the names and addresses of persons having such knowledge. Such subpoena may be served at any place within the state of New York in the same manner in which subpoenas issued out of the Supreme Court are served. Any person who shall neglect or refuse to attend or testify in obedience to any such subpoena or to be sworn or affirmed or to answer any proper or material question may be arrested by virtue of an order of attachment, which may be issued by the city judge upon his own knowledge of such neglect or refusal or upon written proof of the service of such subpoena, and of such neglect or refusal and in the absence of a satisfactory excuse therefor may be punished by the city judge in the same manner and to the same extent as a witness neglecting or refusing to attend in obedience to a subpoena duly issued and served out of the supreme court.

("As amended and superseded by Niagara Falls Local Law No. 1, 1931, effective February 2nd, 1931.")

ARTICILE XI.

DEPARTMENT OF PUBLIC INSTRUCTION

Section 281. Boundaries.
282. Board of education; how constituted.
283. Organization.
284. Powers.

285. Duties.
286. Powers, subject to approval.
287. Certificate of expenses.
288. Approval of certificate.
289. School moneys to be kept separate.
290. Transfer of school moneys.
291. Purchase of site and buildings.
292. Report of expenditures.
293. State apportionment payable to treasurer.
294. Ordinances for school property.
294-a. Library Trustees—powers and duties.
294-b. Library budget—preparation.
294-c. Library budget—consideration by council.

§ 281. "Repealed by Laws New York 1917, Chapter 786—Effective June 8, 1917."

§ 282. "Repealed by Laws New York 1917, Chapter 786—Effective June 8, 1917."

§ 283. "Repealed by Laws New York 1917, Chapter 786—Effective June 8, 1917."

§ 284. "Repealed by Laws New York 1917, Chapter 786—Effective June 8, 1917."

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§ 291. "Repealed by Laws New York 1917, Chapter 786—Effective June 8, 1917."

§ 292. "Repealed by Laws New York 1917, Chapter 786—Effective June 8, 1917."

§ 293. "Repealed by Laws New York 1917, Chapter 786—Effective June 8, 1917."

§ 294. "Repealed by Laws New York 1917, Chapter 786—Effective June 8, 1917."

§ 294-a. Three members of the board of library trustees, appointed as hereinbefore provided, in addition to the mayor and superintendent of schools who shall be ex officio members of said board, shall hereafter constitute the board of library trustees. Subject to the provisions of this act, said board shall have power and it shall be their duty to maintain a free public library, to provide rooms for their use, to employ librarians and other employees and to have the care and supervision of the library building and rooms and the books and other publications belonging thereto and to superintend the letting out and return thereof and to exercise the same discretion as to disposition of the moneys provided by law for the purchase of libraries as is conferred upon the inhabitants of school districts, and to elect from its members a president, clerk and such other officers as it may by resolution determine. The records of the proceedings of said board or a transcript thereof certified by its president and clerk, shall be received in all courts and places as primafacie evdience of the facts therein stated.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

§ 294-b. On or before the first day of April of each year, the board of library trustees shall prepare a certificate of such sums of moneys as it deems necessary for the year commencing August first thereafter for each of the following purposes, namely: (1) For the purchase maintenance and care of the free public library, library buildings and grounds; (2) for the purchase of fuel and lights and to pay the contingent expenses of the district, including the salaries of librarians, janitors and other employees and incidental expenses.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

§ 294-c. Such certificate shall, within the time hereinbefore specified, be presented to the city council of said city for its approval. Upon receipt of such certificate the city council shall proceed to consider the same and may adopt such certificate or may diminish, increase or reject any item therein contained. Such certificate as approved by the council shall be

filed with the city clerk, and the council of said city shall include the amount so certified in the annual city tax and assessment roll for that year, and such amount shall be collected by the city treasurer and credited to the various funds so designated in such certificate. Whenever said sum or sums shall have been so certified and filed with the city clerk, the city treasurer shall have authority and it shall be his duty to borrow upon the faith and credit of said city the amount so certified or any part thereof which may be necessary to meet the various orders of the board of library trustees upon him and in paying the current expenses of the library for the year for which the certificates were presented.

("As amended by Laws N. Y. 1917, Chapter 442—Effective May 14, 1917.")

ARTICLE XII.

DEPARTMENT OF INDUSTRIAL AFFAIRS; DIRECTOR OF INDUSTRIAL AFFAIRS; ADVISORY BOARD OF GRADE CROSSING COMMISSIONERS; ADVISORY BOARD OF HARBOR COMMISSIONERS.

Section 295. Director of industrial affairs; duties.
296. Director of industrial affairs; powers; reports.
297. Constitution of advisory board of harbor commissioners; powers.
298. Power of city to acquire property for harbor purposes.
299. Commissioner of land office to convey certain lands to city.
300. Power of city to construct docks.
301. Tax election to raise money for harbor purposes.
302. Sinking fund.
303. Rates for dock privileges.
304. Rules and regulations; penalties.
305. Constitution of advisory board of grade crossing commissioners; powers.
306. Preparation of plans.
307. Notice to railroad companies of proposed action.
308. Petition to public service commission.
309. Adoption of detailed plans.
310. To make estimate of cost; to be submitted to taxpayers.

311. Expenses to be a charge upon city and to be included in budget.

312. Powers transferred to counsel.

313. Not to repeal chapter six hundred and fifty of laws of nineteen hundred and six.

§ 295. It shall be the duty of the director of industrial affairs to gather information and data referring to industrial and commercial conditions of said city; to have the same properly tabulated and arranged so that ready reference may be had thereto; to have data and information printed in proper form relating to industrial and commercial advantages and conditions of said city; to promptly afford such information to all persons, firms and corporations asking for such information; to keep his offices open and the records thereof accessible to all persons each day from nine o'clock in the morning until four o'clock in the afternoon, Sundays and legal holidays excepted, and on such other hours as the city council or the city manager may direct; to render such reasonable assistance as he may be able in inducing industries to locate in said city of Niagara Falls, New York, and to enable industries already located in said city to secure any proper, new or further advantages. It shall be his duty to act in conjunction with commercial bodies and welfare organizations of the city rendering them such assistance as they should properly receive, and to discharge further duties as may be required of him from time to time by the city manager or city council pertaining to the general industrial development of said city and the general public welfare. He may make from time to time to the city council or city manager such recommendations as he deems advisable bearing upon the general industrial development and general welfare of the city, and he shall be ex officio a member of the advisory board of grade crossing commissioners and advisory board of harbor commissioners.

§ 296. Said director of industrial affairs shall have power subject to the approval of the city manager to incur expense for traveling fees, hotel bills and reasonable entertainment in interviewing and negotiating with owners of industries the location of which within said city is sought, or in securing conventions, or in interviewing and transacting business with any persons having industrial relations with said city, or in

seeking in any reasonable way to promote the industrial development of said city, and to incur expense for advertising the advantages of said city or in promoting the general welfare thereof, but no such expense shall be incurred by him without the estimate thereof being first submitted to the city manager for his approrval and direction, and said director of industrial affairs shall file with the city clerk monthly, or on the last day of each month, a correctly itemized statement of the receipts and disbursements of his office for that month, and shall from time to time report to the city manager concerning the affairs of his office as directed by said manager. He shall attend the meetings of the board of which he is ex officio a member and shall discharge such duties relating to the bureaus or departments with which said boards are respectively connected as required by the city manager or city council, and he shall attend such meetings of the council or other boards and departments of the city from time to time as requested by said city council or the city manager.

§ 297. Five members of an advisory board of harbor commissioners, appointed as hereinbefore provided, who shall serve without pay, in addition to the director of industrial affairs who shall be ex officio a member of said board shall constitute the advisory board of harbor commissioners. It shall be the duty of the advisory board of harbor commissioners to pass upon such matters pertaining to the harbor wharves, quays, piers and other matters pertaining to navigation of Niagara river affecting the interests of said city as may be from time to time referred to it by the council or the city manager, and to report theron with its recommendation to the city manager or city council as directed after investigation; and said board may from time to time recommend to the city council or city manager such action relating to the aforesaid matters as they deem advisable, but the failure of said board to pass upon any matter referred to it shall not prevent the city council or city manager from proceeding therewith nor shall any recommendations of said board be binding upon said city council or said city manager.

§ 298. The council shall have power in the name of the city of Niagara Falls, to acquire such real property within said city and along or under the waters of the Niagara river

above the falls, as shall be necessary for approaches, piers, wharves, slips and basins contemplated by this act which they may deem necessary for public use at said city. Such real property may be acquired by agreement with its owners, or in case of inability to agree with such owners as to compensation, the council is authorized to acquire title thereto by condemnation in the manner provided in the condemnation law.

§ 299. The commissioners of the land office after hearing the riparian owners affected by any proceedings hereunder are hereby authorized and directed upon such terms and conditions as they shall deem proper to convey to the city of Niagara Falls, by proper instruments in writing, for use for wharves, docks, piers, slips, abutments, bridges and basins and other uses connected therewith all the property, rights, title and interest of the people of the state of New York in and to any part of the lands under the waters of the Niagara river described as follows, namely: Beginning at a point in the Niagara river in the easterly line of the New York state reservation at Niagara Falls eight hundred and twenty feet, measured along said line southerly from the stone monument at an angle of Port Day; thence running south seventy-two degrees two minutes east one thousand and sixty feet; thence south seventy-one degrees twenty-six and one-tenth seconds, east twenty-two hundred and thirty and thirty-seven one-hundredths feet; thence south seventy-one degrees thirty-six minutes east four hundred and forty feet; thence south seventy-five degrees and fifty-six minutes east seven hundred and ninety-three feet; thence south seventy-nine degrees and twenty-eight minutes east eight hundred and ten feet; thence south eighty-four degrees fifty-five minutes east six hundred and fifty-two feet; thence south eighty-nine degrees thirteen minutes east five hundred and sixty feet; thence north eighty-eight degreees twenty-five minutes east six hundred feet; thence north eighty-six degrees thirty-five minutes east four hundred and twenty feet; thence north eighty-two degrees three minutes east three hundred and fifteen feet; thence south eight degrees forty-five minutes east four hundred and sixty-two feet; thence south eighty-one degrees twenty minutes east one thousand one

hundred and ninety feet; thence south seventy-one degrees twenty-seven minutes east one thousand five hundred feet; thence south thirty-five degrees east eight hundred and sixty feet; thence south thirty-nine degrees forty-two minutes west one thousand four hundred and twenty feet; thence north twelve degrees six minutes east two hundred and eighty-five feet; thence north thirty-eight degrees fifty-two minutes east eight hundred and twelve feet; thence north twelve degrees thirty minutes east three hundred and eighty-five feet; thence north seventy-seven degrees thirty minutes west four hundred and ten feet; thence south twelve degrees thirty minutes west four hundred and ninety feet; thence north seventy-seven degrees thirty minutes west two hundred and ninety feet; thence north twelve degrees thirty minutes east four hundred and ninety feet; thence north seventy-seven degrees thirty minutes west one hundred and ninety feet; thence south twelve degrees thirty minutes west four hundred and ninety feet; thence north seventy-seven degrees thirty minutes west two hundred and ninety feet; thence north twelve degrees thirty minutes east four hundred and ninety feet; thence north seventy-seven degrees thirty minutes west one hundred and ninety feet; thence south twelve degrees thirty minutes west four hundred and ninety feet; thence north seventy-seven degrees thirty minutes west two hundred and ninety feet; thence north eighty-seven degrees thirty minutes west four hundred and eighty-five feet; thence south five degrees forty-nine minutes east eight hundred and seventy-five feet; thence south thirty-one degrees forty-nine minutes west six hundred and twenty feet; thence north eighty-one degrees five minutes west two hundred and fifty feet; thence north six degrees twenty-one minutes west one thousand and ten feet; thence south eighty-nine degrees fifty-two minutes west three thousand three hundred and thirty feet; thence south eleven minutes west one thousand six

hundred and sixty feet; thence north seventy-eight degrees nine minutes west four hundred and seventy-two feet; thence north three degrees forty-nine minutes east about six hundred and eighteen feet to a point in the northerly boundary line of the herein described parcel. Provided that a slip or channel bounded as follows shall be kept open for the free and unrestricted passage of the waters of said Niagara river from the southerly to the northerly side of said lands, namely: Beginning at the easterly end of that part of the boundary line herein aforesaid stated to extend to six hundred feet on a course north eighty-eight degrees twenty-five minutes east, running thence north eighty-six degrees thirty-five minutes east four hundred and twenty feet; thence south twelve degrees thirty-nine minutes east one thousand and seventy feet; thence south seventy-seven degrees thirty minutes east two hundred and seventy feet; thence south twelve degrees thirty-six minutes east five hundred and thirty-five feet to the southerly boundaries of said lands; thence north eighty-seven degrees thirty minutes west four hundred and eighty-five feet; thence north forty degrees sixteen minutes west three hundred and ninety feet; thence north twelve degrees thirty-nine minutes west one thousand two hundred and ninety-five feet, to the place of beginning hereof.

§ 300. The council is authorized to construct and maintain upon the lands acquired by the city of Niagara Falls, for harbor purposes, all necessary docks, piers, wharfs, slips, basins, abutments, bridges, approaches and other structures required to furnish at said city for public use proper commercial facilities, and shall have exclusive control and custody thereof, and have power to grant any lease or right, otherwise to use and employ the same, subject to their said control, in any manner which shall be in aid and furtherance of the public use and not inconsistent therewith; provided that any bridge which shall be constructed shall be a drawbridge, or otherwise constructed to not unnecessarily interfere with navigation, and said council, for the purposes of this act, shall also have the exclusive charge and control of all the navigable waters of the Niagara river within said city above the falls.

§ 301. Upon the request of the advisory board of harbor commissioners, or upon its own suggestion, the council may

submit to a vote of the people at a special election to be called therefor the question of raising the sum of money so requested or suggested upon the credit of the city of Niagara Falls if approved by a vote of the people of the city shall cause the bonds of the city to be issued and negotiated therefor at not less than par, which said bonds shall be executed and negotiated as are all other bonds of said city, and be made payable, the principal thereof, not exceeding forty years from their date, and the interest at not exceeding five per centum per annum, semi-annually, at a specific time and place stated therein; said money shall be expended only to acquire lands for harbor purposes and to provide, construct and maintain docks, piers, wharfs, slips, basins, bridges and approaches thereto which said council shall deem necessary for the public use of said city, and shall be raised as aforesaid in such amounts and at such times as said council shall require the same in the progress of said work. All such moneys and all moneys which may be received by said council from rentals or otherwise, shall be deposited with the city treasurer forthwith, to the credit of the harbor fund and shall be drawn out only on warrants ordered drawn by the council to pay for the purchase or acquisition of said lands, the expenses of construction and maintenance of such docks, wharfs, piers, slips, bridges and basins, and the care and custody thereof, including the compensation of the employees of said board and of the harbor master.

§ 302. The city treasurer each year shall set apart from the moneys received by him to the credit of the harbor fund, other than the proceeds of bonds provided for in the last section, a sum equal to one-fourth part of the principal of said bonds outstanding, which shall constitute a sinking fund and be used for the payment of such bonds and for no other purpose. If the moneys so received in any fiscal year are insufficient for such purpose the deficiency shall be made up from the moneys so received at any time thereafter. The city treasurer shall invest the moneys of said sinking fund to obtain the largest possible interest consistent with safety, and the interest so received shall be applied to pay the interest of said bonds, if any, and any balance of said interest as the same may accrue, and of said principal of said bonds when

due, shall be paid by said city as the interest and principal of its other city bonds are paid, and the council shall annually cause the amount necessary therefor to be levied and raised by tax in time to pay the same when due.

§ 303. The rates and charges for leases, rental, dock privileges and other use of said harbor improvements for each ensuing year shall be fixed by the council during each December to begin January first next thereafter except in any case where such rates or charges shall have been fixed for a longer period.

§ 304. The council is authorized to make and publish rules and regulations for its government, and for the government, use and control of the properties in this title placed in its charge and to fix and designate a penalty for the violation of any rule or regulation, and any penalty so fixed and designated that shall be incurred shall be recovered by action in the name of the city of Niagara Falls, and any claim which at any time may be due and existing for rents or revenues of any said properties shall also be recovered by action in the name of said city. All such recoveries, when collected, shall be placed by the city treasurer to the credit of said city.

§ 305. Five members of an advisory board of grade crossing commissioners appointed as hereinbefore provided, who shall serve without pay in addition to the director of industrial affairs who shall be ex officio a member of said board, shall constitute the advisory board of grade crossing commissioners. It shall be their duty to pass upon all matters referred to them by the city manager or the city council appertaining to railway crossings in said city and to make investigations and report thereon as required by the city manager or the city council from time to time; and they may, from time to time, as they deem proper, investigate and recommend to the city manager or the city council such action as they deem advisable relating to crossings of railways within said city, but the failure of said board to act upon any matter referred to it shall not prevent the city manager or the city council from proceeding in respect to said matter nor shall their recommendations be binding upon the council or the city manager. The appointive members of said board shall serve for the term of two years each with

the exception that two of said members first appointed shall serve for one year each but their successors shall be appointed for the term of two years each.

§ 306. Said board with the approval of the council shall have power to prepare and adopt a general plan for the elimination of existing railroad crossings in said city, where the same cross any street, avenue, highway, alley or public ground, or the track or tracks of any other railroad, at grade, and for the constuction or extension of any new street, avenue, highway, or alley, or any new portion of any street, avenue, highway or alley across any railroad or railroads, or the rights of way of any railroad in said city, and to alter, amend or modify such plan, from time to time, in such manner as may be deemed expedient or necessary. Said board shall view the different places in said city where any street or proposed street, avenue, highway, alley or public ground is crossed by any railroad, or right of way of any railroad, and where any railroad or proposed railroad crosses the track or tracks of any other railroad at grade so far as they shall deem the same necessary for their information, and may cause surveys to be made for the purpose of preparing the general and detail plans which may be necessary to carry this act into effect.

§ 307. Before adopting, altering or modifying any such plan, the city council shall give notice of their proposed action to all railroad companies which are to bear any part of the expenses of the work for which such plan is made, and shall give them an opportunity to be heard. The city council shall make known the plans or modifications of a plan proposed to be adopted by them filing such proposed plan or modifications of a plan in the office of the city engineer and publish a notice thereof daily in at least two of the daily newspapers published in the city of Niagara Falls, for at least ten days before the first hearing thereon, and shall hear the railroad company or companies interested, and the city, and any party interested by their respective representatives or counsel in opposition thereto, or in respect to any proposed change therein. Any railroad company interested, and the city, or any interested party, may, at such hearing, call and examine witnesses as to the feasibility and expediency of such proposed

plan, or of any alteration or modification thereof, which may be suggested. The city council shall hear the proofs and allegations of the parties, reduce the testimony taken by them to writing, and they, or a majority of them, shall make a report in writing, wherein they shall state the plans adopted by them; the height of each of the overhead crossings from the grade of the street; the character, material and general dimensions of the structure, the changed grade of the street, if the grade is changed in any case; the character, material and general description of any structure by which a street or alley is to be carried over any railroad track, and such other information regarding the adopted plans as they shall deem necessary. The report shall be filed in the office of the clerk of Niagara county, together with the testimony taken before the council, and such report shall thereupon become a plan for the part of the work provided for or referred to therein. The city council after adopting any plan or modifying or altering any plan, shall give notice thereof to the railroad or railroad companies interested, and shall designate the place where such plan, or copy thereof, will be kept on file for inspection and examination. The notice shall be served by delivering a copy thereof, together with a copy of the plans to the president, vice-president, or a director of the railroad company, if it is a domestic corporation, and if it is a foreign corporation, by mailing the same to the president of the railroad company at its principal office, with the postage paid thereon.

§ 308. If the railroad companies shall approve such plans, or shall fail to approve the same within six months after the service upon them of the notice herein provided for, said city council may present a petition to the public service commission in accordance with sections sixty-one and sixty-two of the railroad law, together with a duplicate of the plans adopted by said council, and said public service commission shall proceed to consider and act upon said petition as provided in said sections. Said public service commission may approve of such plans, or alter, amend or modify the same, as it may deem proper. Upon such plans being approved by the said commission the same shall become and be known as the general plan for such work.

§ 309. After the approval of such general plan by the said

commission as provided in the preceding section said city council may prepare and adopt detailed plans for such portion of the work shown on said general plan as they may deem necessary to be done from time to time, which detail plans shall be prepared, adopted and approved by the said public service commission in the same manner and after giving the same notice and opportunity to be heard, as is provided herein in relation to said general plans, and said city council may present a petition to the said commission for the construction of the work shown on such detailed plans. Such petition shall be in the form required by section sixty-two of the railroad law and all the provisions of section sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-seven-a, sixty-eight and sixty-nine of the railroad law shall apply and be applicable to any such petition, and the construction of the work shown on such detailed plans, except that it shall not be necessary for the city council of said city to determine the necessity for carrying any new street across any railroad as shown on said plans.

§ 310. After the approval of said detail plans by the said commission and before any petition for the construction of the work shown on said plans shall be made to said commission, the city council shall make an estimate of the cost of said work and of the portion thereof which the city will be required to pay, and thereupon submit the question as to whether or not such work shall be proceeded with, to a vote of the resident taxpayers of said city at a special election called by said council and noticed by the city clerk in the manner provided in this act for the calling and holding of special tax elections. In the notice for such special election, shall be included a statement of the work to be done, the estimated cost thereof, and the estimated amount of such cost which the city will be required to pay. If a majority of all the votes cast at such special election shall be in favor of proceeding with such work, said board shall have power to proceed therewith as herein provided.

§ 311. All expenses of the advisory board of grade crossing commissioners, authorized by the city council, and all other expenses in connection with the carrying out of the matters referred to in this article, shall be a charge upon the

city, and the city council shall provide for and include such expenses in the annual tax budget and raise and collect the same annually from the taxable inhabitants and property of the city in the same manner as other taxes.

§ 312. All of the powers possessed by the board of grade crossing commissioners of said city on December thirty-first, nineteen hundred and fifteen, are hereby transferred to the city council.

§ 313. Nothing in this act shall be deemed to repeal or affect chapter six hundred and fifty of the laws of nineteen hundred and six.

ARTICLE XIII.

BUREAU OF PARKS; ADVISORY BOARD OF PARK COMMISSIONERS.

Section 314. Advisory board of park commissioners; powers and duties.
315. Control of public parks.
316. Superintendent of parks.
317. Acquisition of lands; tax elections.
318. Title to property.

§ 314. It shall be the duty of the advisory board of park commissioners to pass upon such matters pertaining to the parks, playgrounds, squares, gardens and places of outdoor recreation belonging to said city as may be from time to time referred to it by the city council or the city manager, and to investigate and report thereon with its recommendations to the city council or the city manager as requested. Said board may also from time to time recommend to the city council such action as may pertain to any of the aforesaid matters which they deem advisable, the failure of said board to pass upon any matter referred to it shall not prevent the city council or the city manager from proceeding therewith nor shall any recommendations of said board be binding upon the city council.

§ 315. The council shall have the management and control, and shall be responsible for the care of all the public parks, playgrounds, squares and gardens belonging to said city, and of all the buildings, statues, monuments and works of art therein, and shall have the power to take and institute proceedings by condemnation, as provided in this act, for the

acquisition of any lands necessary for any of the above purposes, and, subject to the general provisions of this act, may expend such moneys as may be raised or appropriated for the purposes herein specified, and may make, prescribe and enforce such rules, by-laws and regulations for the government and management of parks as they may deem proper, not inconsistent with the laws of this state.

§ 316. Subject to the control and management of the city manager, public parks, playgrounds and places of recreation owned by or under the control of said city, shall be under the supervision and direction of a city employee known as a superintendent of parks of said city who shall have supervision and control of all persons employed in connection therewith, and the city council shall annually make such appropriation for the maintenance of said public parks, playgrounds and places of recreation as it deems advisable.

§ 317. **Acquisition of lands and special election.** Whenever a majority of said advisory board of park commissioners shall make a report to the council recommending the expenditure of money for public parks, playgrounds, squares or gardens within the city, or the erection of buildings in connection therewith, such report, if approved by the council, shall be by it submitted as approved, or whenever the council shall deem such an expenditure advisable, it may submit same to a vote of the resident taxpayers of said city at a special election called, noticed and held in the manner provided herein for a tax election. In the notice of such special election shall be included a statement of the amount of money proposed to be raised, and for what particular purpose the same is to be expended; if a majority of all the votes cast at such special election shall be in favor of raising the amount of money specified for the purposes stated in the notice of election, the city shall issue its bonds for such purpose in the manner and form provided in this act, and upon the receipt of the proceeds of such bonds the city manager shall be authorized to proceed forthwith with the expenditures thereof for the purposes so specified.

§ 318. **Title to property.** The city council may also accept gifts and lands and property for public use and recreation, but the title to all lands and property acquired in any manner by

the council shall be taken in the name of the city of Niagara Falls, and such lands shall be held and occupied for the public use for which the same have been acquired.

ARTICLE XIV.

MISCELLANEOUS.

Section 320. No person to contract debt without authority.
321. Ineligibility of city officials and employees.
322. Inhabitant not ineligible as juror upon trial of action where city is a party.
323. When action against the city may be maintained.
324. Licenses for places of amusement.
325. How expenses of city government are to be met after taking effect of this act.
326. Offices continued; offices abolished; offices created.
327. Laws repealed.
328. Saving clause.
329. Authority to compromise claims.
330. Powers conferred by chapter four hundred and forty-four, laws of nineteen hundred and fourteen, saved.
331. When this act to take effect.
331-a. Advisory election.

§ 320. No person shall have power to make any purchase or contract any debt on the part of the city, unless especially authorized by the provisions of this act.

§ 321. No officer or employee of the city shall be eligible to or hold the office of inspector of election, poll clerk or ballot clerk, but the fact that the person is a commissioner of deeds shall not disqualify him from holding such office.

§ 322. Upon the trial of any issue, or upon the taking or making of any inquisition, appraisal or award, or upon the judicial investigation of any facts whatever, to which issue, inquest or investigation the city is a party, or in which the city may in any way be interested, no person shall be deemed an incompetent judge, referee, commissioner, witness or juror by reason of his being an inhabitant, freeholder or taxpayer of the city.

§ 323. No civil action shall be maintained against the city

for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed unless it appear that the city had actual notice of the defective, unsafe, dangerous or obstructed condition of such street, highway, bridge, culvert, sidewalk or crosswalk and that there was a failure or neglect within a reasonable time after such notice to repair or remove the defect, danger or obstruction complained of, or, in the absence of such notice, unless it appear that such defective, unsafe, dangerous or obstructed condition existed for so long a period that the same should have been discovered and remedied in the exercise of reasonable care and diligence. But no such action shall be maintained for damages to person or property sustained in consequence of the existence of snow or ice upon any sidewalk, crosswalk or street unless written notice thereof relating to the particular place was actually given to the superintendent of public service, and there was a failure or neglect to cause such snow or ice to be removed, or the place otherwise made reasonably safe within a reasonable time after the receipt of such notice. All claims against the city for damages or injuries to persons or property alleged to have been caused by the misfeasance or negligence of the city, or any of its officers of employees shall be presented to the council in writing within thirty days after the happening of the accident or injury out of which the claim arose. Such writing shall describe the time when, the particular place where, and the circumstances under which the damages or injuries were sustained and the cause thereof; it shall also state, so far as it is then practicable, the nature and extent of the damage or injury; it shall also state the place of residence of the claimant by street and number, and, if there be no street and number, it shall contain such statement as will disclose the place of residence; and such claims shall be verified by the oath of the claimants. The omission to present such claims within thirty days, or to commence an action thereon within one year, shall be a bar to any claim or action therefor against the city but no action shall be brought upon any such claim until forty days have elapsed after the presentation of the claim to the council. Where any action is brought against

said city to recover damages founded upon alleged misfeasance or negligence of the city or alleged nuisance maintained by the city, the plaintiff must show that written notice of the accident out of which such claim arose was given to the corporation counsel within five days after the happening thereof, and a duplicate thereof within said time filed with the city clerk, which notice shall give the name and address of the claimant, the time and place of the accident, the nature of the injury for which claim is made, and shall state that the claimant intends to bring an action against the city therefor, and that the claim aforesaid was presented to the council within the time and in the manner and form above provided in order to maintain such action. Where the defect in any sidewalk, street or highway is caused in whole or in part by any independent contractor, said contractor must be made a party defendant to any action brought against the city to recover damages by reason of such defect. Nothing contained in this section shall be held to modify any existing rule of law relative to the question of contributory negligence nor to impose upon the city any greater duty or obligation than that it shall keep its streets and public places in a reasonably safe condition for public use and travel. The place of trial of all actions or proceedings against the city, or any of its officers, boards or departments, shall be the county in which the city is situated.

("As amended and superseded by Niagara Falls Local Law No. 4, 1928—Effective December 17, 1928.")

§ 324. No person or corporation shall open or conduct within the city an opera house, theatre or concert hall of any kind, or shall cause, permit or allow music of any kind to be rendered or furnished or any show, theatrical performance or exhibition to be given in any saloon or place where liquor is sold, for public amusement or entertainment, without first obtaining a license from the city manager and paying to the city clerk the license fee fixed by the council therefor. The city manager may grant or refuse any such license in his discretion. Any person violating the provisions of this section shall be deemed a disorderly person under the provisions of this act, and on conviction thereof shall be punished accordingly. Any corporation violating the provisions of this sec-

tion shall be liable to pay to the city a penalty in the sum of fifty dollars to be sued for and recovered by the city in a civil action.

§ 325. The expense of maintaining and carrying on of the city government, and the various departments and offices of said government up to the first day of January, nineteen hundred and seventeen, together with any indebtedness due or to grow due, may be met and paid after the taking effect of this act, in the manner in this act provided, except that up to and including the thirty-first day of December, nineteen hundred and sixteen, any and all moneys raised for any fund shall be deemed to have been appropriated for the purposes named and provided in said estimate to meet which said fund was raised. And it is further provided that all revenues or moneys of said city which have not been heretofore appropriated to any specific purpose may be disbursed in the manner herein provided for any purpose for which said city, its departments or officers might properly disburse the same, provided the council shall first appropriate said moneys for said purposes.

§ 326. The officers elected at the election held in November, nineteen hundred and fifteen, and all officers and appointees appointed by the city council, the mayor or city manager, on or since January first, nineteen hundred and sixteen, shall continue to be the officers and employees of said city for the terms for which they were elected or appointed respectively, but they shall perform the duties and be subject to the liabilities of said officers and employees as provided herein, the same as though said officers or members were elected or appointed and had duly qualified under this act. Every office, board, body, department and position of said city, excepting the office of city judge, police judge, justice of the peace and department of public instruction and positions and bodies expressly provided for by general laws, existing on December thirty-first, nineteen hundred and fifteen, is hereby abolished and shall be deemed to have been abolished at midnight of the thirty-first day of December, nineteen hundred and fifteen, and hereafter there shall be in said city only such city offices, boards, departments, bureaus, positions and employees as are expressly mentioned in this act or their creation provided for

herein or provided for by general laws, and for the purpose of fixing the time of the creation of said offices, boards, departments, bureaus and positions this act shall be deemed to have taken effect on January first, nineteen hundred and sixteen. The justice of the peace of said city shall have and exercise all powers and authority and discharge all duties, and be entitled to all fees and compensations of justices of the peace of the several towns in this state and said justice of the peace shall have the same territorial jurisdiction as if said city constituted a part of the town of Niagara. The justice of the peace shall have no jurisdiction of any criminal matter arising within said city.

§ 327. Chapter three hundred of the laws of nineteen hundred and four, entitled, "An act to revise and consolidate the general acts relative to the city of Niagara Falls, New York," and all acts amendatory thereof and supplemental thereto are hereby repealed, and all statutes of this state and ordinances of the city of Niagara Falls, so far as they are inconsistent with the provisions of this act, are hereby repealed, but such repeal shall not affect any right already existing or accrued, or any liability incurred by reason of the violation of any law heretofore existing or any suit or proceeding already instituted, or action had under the laws or ordinances, unless otherwise expressly provided in this act, but nothing herein contained shall be construed so as to affect any of the several acts or parts of acts to regulate and improve the civil service of the state of New York. Such repeal shall not revive any act or ordinance repealed by a law or ordinance hereby repealed, but shall include all laws amendatory of the laws repealed, except as provided in this section.

§ 328. Nothing contained in this act shall be construed to repeal any statute of the state or ordinance of the city, or rule or regulation of the board of health, and the same shall remain in full force and effect, when not inconsistent with the provisions of this act, to be construed and operated in harmony with the provisions of this act. The powers which are conferred and the duties which are imposed upon any officer or department of the city under any statute of the state, or any city ordinance, which is in force at the time of taking effect of this act shall, if such office or department be

abolished by this act, be thereafter exercised and discharged by the officer, board or department upon whom is imposed corresponding or like functions, powers and duties under the provisions of this act. Where any contract has been entered into by the city, prior to the time of taking effect of this act, or any bond or undertaking has been given to or in favor of the city, which contains provisions that the same may be enforced by some officer, board or department therein named, but by the provisions of this act such office, board or department is abolished, such contracts, bonds and undertaking shall not in any manner be impaired but shall continue in full force and effect, and the powers conferred and the duties imposed with reference to the same upon the officer, board or department which has been abolished shall thereafter be exercised and discharged by the officer, board or department upon whom is conferred or imposed like powers, functions or duties under the provisions of this act.

§ 329. The council of said city is hereby given authority to compromise and settle any and all claims for damages filed with them under the provisions of this act, and the amount agreed to be paid on such compromise and settlement shall be included in the next annual tax budget of said city, and shall be payable within thirty days after the next annual tax roll is delivered to the treasurer of said city for collection.

§ 330. The passage of this act shall not be deemed to take from the city any powers conferred by chapter four hundred and forty-four of the laws of nineteen hundred and fourteen, and the provisions of this act shall be deemed to be substituted for the provisions of chapter three hundred of the laws of nineteen hundred and four and acts amendatory thereof with the same force and effect as though this act had taken effect on and before January first, nineteen hundred and sixteen, and shall be considered as and continue to be the charter of the city until and unless superseded as provided by law.

§ 331. This act shall take effect immediately.

§ 331-a. (1) The City Council of said city may submit for the approval of the electors of said city the question of the adoption by said council of any resolution or ordinance affecting the interests of said city or the inhabitants thereof for the

purpose of ascertaining the sentiment of the qualified electors of said city, and the decision of said electors at such election shall be advisory only. Such election shall be upon notice the same as required for tax elections in said city.

(2) Voting at such election shall be by ballot, the form of which at each such election shall be determined by special resolution of said City Council.

(3) At such election the polling places in each election district of said city shall be in charge of the regular board of election inspectors consisting of the four election inspectors regularly appointed in such district pursuant to statute. The organization of the inspectors of election, the opening and closing of the polls, and the general conduct of the election thereat when not otherwise herein specifically provided for shall be governed by the provisions of the election law of the State of New York, except when said election is not held at the time of the general election said election board shall delegate two of their members to act as ballot clerks, one to deliver and the other to receive ballots, and one of the remaining members of said board shall properly keep the list of voters at such election and the other remaining member shall check the names of the voters voting against the registration list in possession of said board, excepting that upon the ballots being counted by the inspectors of election they shall return the ballots with their report to the City Clerk of said city forthwith and it shall be the duty of the City Clerk to see to the designation of the proper place for holding the election in each election district of said city and the furnishing of the necessary supplies therefor, and the duties of the commissioner of election of Niagara County, State of New York, so far as the designation of the equipment and providing for polling places in said city at general elections shall apply to and govern said City Clerk at such special elections so far as the same shall be affected. The City Clerk shall see that each board of election inspectors in each district is furnished with a duly certified copy of the regularly enrolled electors of such district at the opening of the polls, together with books for the registration of electors voting at such polling places in such form as shall be prepared and prescribed by said City Clerk.

(4.) Whenever such special election is held at the same

time as the general election and the question to be voted upon is not placed upon a voting machine, the board of election inspectors in each election district may appoint two clerks, unless such clerks have been previously designated by said City Council hereby required to make such designation, or in case of such designation by such City Council a designated clerk shall fail to appear or be unable to act, one from each political party represented upon said board, and shall designate one of said clerks to have charge of said ballots and the voting list furnished for said special election, and the other clerk shall be designated to receive the ballots and deposit the same in the ballot box provided for the reception of the same and shall deliver the same to the election inspectors at the close of the polls for counting and return of the same, as herein provided. Such clerks shall be entitled to the compensation provided by statute for clerks of the board of election inspectors at general elections.

(5.) Electors entitled to vote at any said election shall be those duly enrolled upon the registration list of voters filed with the said Commissioner of Elections of Niagara County.

(6). The certificate of the result of such election in each election district, which shall be made out and signed by the inspectors of election in each district shall be in such form as shall be prescribed by the City Clerk. The City Clerk shall receive the sealed ballot boxes containing the ballots cast at said election from each election district properly sealed and shall safely keep the same until further order of the City Council. The City Clerk shall, upon receiving the certificates of the result of the election from the various boards of election inspectors in said city showing the result of the election in each respective district, forthwith tabulate and certify the total result of such election in the various election districts in said city, and certify the same to said City Council at its next regular meeting, and said City Council shall thereupon declare by resolution the result of such election in said city, unless a recount shall be demanded at said meeting of said City Council, in which case, said City Council shall order a recount of the ballots in any election district where a recount is demanded; and said recount shall be held on the day

following said meeting of said City Council before said City Council sitting as a committee of the whole. The said committee of the whole, upon completion of said recount, shall certify the result of the same to said City Council at its next regular meeting and said Council shall at said meeting, or in case of proceedings in a court of competent jurisdiction at such time as shall be fixed by order of said court, confirm the result of said election, as aforesaid.

(7) Organizations of electors of said city in favor of or opposed to any questions submitted to a referendum, as herein provided, may be represented at each polling place in said city, during the time of holding thereat and during the time of counting the ballots, by two watchers to be appointed by the Mayor from lists submitted by such organizations, and such watchers shall have all the powers and duties of watchers at regular elections provided by statute, but shall in no manner interfere with the conduct of general elections when the same shall be held at the same time and place as such special election. In case of a recount, as herein provided, proponents and opponents of any questions shall be entitled to five watchers to be appointed by the Mayor as aforesaid from a list submitted by said proponents or opponents of the question or questions.

(8) Special elections herein provided for, shall be held not less than ten days nor more than thirty days after the adoption of a resolution by said City Council providing, for the same, and the City Council shall cause to be published in the official paper at least once before such election a notice setting forth the question to be voted upon and the time and place of holding such election in each election district in said city.

(9) In case said special election is held at the same time as the general election at which voting machines are used, unless otherwise directed by said City Council the question submitted shall be placed upon the voting machines in the respective election districts of said city, and in that case ballot clerks hereinbefore provided for shall not act. The City Clerk shall prepare an abstract of such question to be submitted concisely stating the purpose and effect thereof and forthwith transmit it in the form in which it is to be submitted

to the election officer charged with the duty of publishing notices of election. The placing of such question upon such voting machines shall be governed by the statutes relating to the placing thereon of questions submitted by act of the State Legislature. Returns of the result of such election as to said submitted question shall be made to the City Clerk as hereinbefore provided.

(10) All questions submitted as herein provided at any election shall be consecutively numbered.

(11) The expense of such election shall be defrayed by said city from funds provided by said City Council for that purpose. Any details or questions relating to conducting such election, not herein specifically provided for or not sufficiently governed by the statute of said state, shall be provided for and determined from time to time by special resolution of said City Council.

("As amended and superseded by Local Law No. 8, 1926, and effective July 26, 1926.")

ARTICLE XV

THE ADVISORY BOARD OF ZONING COMMISSIONERS.

Section 332. Advisory board of zoning commissioners; powers and duties.
333. Appeals from decision of administrative officers
334. Appeal, how taken.
335. Stay.
336. Hearing *of decision upon appeal.
337. Report of decision to council.
338. Certiorari proceedings.

§ 332. **Advisory Board of Zoning Commissioners; powers and duties.** Five members of an advisory board of zoning commissioners appointed as hereinbefore provided in addition to the city manager who shall be ex-officio a member of said board, shall constitute the advisory board of zoning commissioners. It shall be their duty to consider, study, investigate and pass upon all matters appertaining to the division of the city of Niagara Falls into districts for the purpose of regulating and restricting the location of trades and industries and the location of buildings designed for specified

*So in original

uses and the regulating and determining the area of yards, courts and other open spaces and report its recommendations to the city council. All petitions to the city council requesting an amendment or repeal of the regulations subscribed for such district or part thereof shall be referred to the zoning commission for recommendation thereon. Whenever the resident owners of fifty per centum or more of the street frontage in any district or part thereof shall present to the city council a petition signed and acknowledged requesting an amendment, change or repeal or the regulations prescribed for such district or part thereof, it shall be referred to the zoning commission and it shall be the duty of said commission to make its recommendation to the council within thirty days after receipt by it of said petition and the council shall act upon such petition and recommendation within thirty days after receiving the report or recommendation of the zoning commission. A proposed amendment to an ordinance which is contrary to the recommendation of the zoning commission shall not be adopted except by unanimous vote of the council. If a protest against such proposed amendment, supplement or change be presented to the council duly signed and acknowledged by the resident owners of twenty per centum or more of the frontage proposed to be altered or by the owners of twenty per centum or more of the property immediately in the rear thereof or by the owners of twenty per centum or more of the frontage directly opposite the frontage proposed to be altered, such proposed amendment shall not be adopted except by a majority vote of the council.

("As amended and superseded by Niagara Falls Local Law No. 9, 1926—Effective June 21st, 1926.")

§ 333. **Appeals from decision of administrative officers.** The advisory board of zoning commissioners shall also hear and decide appeals from and review any order, requirement, decision or determination made by an administrative officer charged with the enforcement of any ordinance or regulation adopted pursuant to paragraphs twenty-four and twenty-five of section twenty of chapter twenty-one of the consolidated laws. The concurring vote of four members of the commission shall be necessary to reverse any order, requirement, decision or determination of any such administrative officer

or to decide in favor of the applicant any matter upon which the commissioners are required to pass under any such ordinance or regulations or to effect any variation in such ordinance or regulation. Every decision of such commission shall, however, be subject to review by certiorari. Such proceedings may be taken by any person aggrieved or by any officer, department, board or bureau of the city.

§ 334. **Appeal, how taken.** Such appeal shall be taken within such time as shall be prescribed by the zoning commission by general rule, by filing with the officer from whom the appeal is taken and with the zoning commission a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the commission all the papers constituting the record upon which the action appealed from was taken.

§ 335. **Stay.** An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the zoning commission after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the zoning commission or by the supreme court, on application, on notice to the officer from whom the appeal is taken and on due cause shown.

§ 336. **Hearing of and decision upon appeal.** The zoning commission shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The zoning commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinances, the zoning commission shall have power in passing upon appeals, to vary or modify any of the rules, regulations or provisions relating to the location and

occupancy of buildings upon a lot or plot and the construction, structural changes in, equipment, or alteration of buildings or structures, so that the spirit of the ordinance or regulation shall be observed, public safety secured and substantial justice done.

§ 337. **Report of decision to council.** The commission shall report its decision to the city council and it shall thereupon become binding and effective unless the council reverse or modify such decision by unanimous vote within two weeks from the date of the filing of said decision.

("As amended and superseded by Niagara Falls Local Law No. 9, 1926—Effective June 21st, 1926.")

§ 338. **Certiorari proceedings.** 1. Petition. Any person or persons, jointly or severally aggrieved by any decision of the zoning commission, or any officer, department, board or bureau of the city, may present to the supreme court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition must be presented to a justice of the supreme court within thirty days after the filing of the decision in the office of the board.

2. Writ of certiorari. Upon the presentation of such petition the justice or court may allow a writ of certiorari directed to the zoning commission to review such decision of the zoning commission and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court or a justice thereof. Such writ shall be returnable at a special term of the supreme court of the judicial district in which the property affected or a portion thereof, is situated. The allowance of the writ will not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the commission and on due cause shown, grant a restraining order.

3. Return to writ. The zoning commission shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return must concisely set forth such other facts

as may be pertinent and material to show the grounds of the decision appealed from and must be verified.

4. Proceedings upon return. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

5. Costs. Costs shall not be allowed against the commission, unless it shall appear to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

6. Preferences. All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

("As amended by Laws New York 1920, Chapter 633, Effective May 10, 1920.")

ARTICLE XVI

PROVISIONS RELATING TO ANNEXATION OF LA SALLE, N. Y.

Section 400. Dissolution of village corporation. Succession of city. Suits against divisions of village. Village ordinances and regulations. City Statutory provisions and ordinances and regulations. Rights of persons and parties. Rights and liabilities of city and village. Village fire department.

401. Officers of city.

402. Village sewer system.

403. Bridge over Little Niagara River.

404. Village police force.

405. La Salle Free Library.

406. Schools. Inventory of village property. Filing of inventory with board of education. Payment over school moneys. Term of school officials.

§ 400. The corporation known as the village of La Salle, New York, and included in the boundaries of the city of Niagara Falls, New York, in this act provided for, is hereby dissolved, subject to the provisions of this act, and said city shall

succeed to and be vested with all the rights, property and liabilities of the said village of La Salle, and every suit, prosecution and proceedings commenced by or against said village of La Salle pending at the time of the passage of this act may be continued by or against and in the name of said village, or at the option of any party thereto the name of said city may be substituted in such proceedings, prosecutions or suits, and such actions, suits or proceedings may be continued in the name of said Niagara Falls, New York. All the divisions of said village, fire or zoning districts, highways, parks, streets and alleys shall remain, be and continue unchanged in said city until changed by future action of the city council of said city, and all building ordinances, zoning ordinances, fire ordinances and rules and regulations relating thereto in said village in force at the time this act fully takes effect shall be and continue in force and shall have the same force and effect in the limits of said city contained within said village at the time this act takes effect until repealed, modified or changed by the city council of said city, subject, however, to the provisions of this act. All statutory provisions relating to said city and all ordinances, rules and regulations relating to said city adopted by the city council of said city in force and relating to said city at the time this act fully takes effect, shall apply to, govern and be in effect throughout said city as in this act defined and bounded except as in this act specifically otherwise provided. The rights and privileges of all persons or parties which may have arisen or accrued under, pursuant to or by reason of any contract, ordinance, rule or regulation or otherwise with said village or said city, shall be and remain the same under this act as they would have been under the law and statutory provisions relating to said village or said city of Niagara Falls, New York. All the rights and liabilities of said city and village respectively in respect to all persons whomsoever existing at the time this act takes effect in full shall be in no wise affected or changed hereby and shall be enforceable by or against said city. All rules and regulations pertaining to the government of the fire department of said village in force at the time this act fully takes effect and all officers and members of said fire department of said village shall remain, and continue unchanged until repealed, changed

or amended by act of the city council of said city. The ownership and control of all property and effects pertaining to or connected with the fire department of said village shall, by virtue of this act, vest in said city to the same extent and in all respects as is now vested in said village and fire department thereof respectively.

(Effective March 31, 1927.)

§ 401. All officers of the present city of Niagara Falls in office at the time that this act fully takes effect shall be and become the officers of said city as changed by this act and shall hold office for their respective terms for which they were elected or appointed, and subject to the provisions of chapter five hundred and thirty of the laws of New York for the year nineteen hundred and sixteen as amended or superseded.

(Effective March 31, 1927.)

§ 402. The present sewer system and plans therefor of said village of La Salle from the time this act shall fully take effect shall be deemed and be a part of the sewer system of said city of Niagara Falls and construction work under said plans shall be proceeded with by said city as the same now are or may hereafter be found necessary to be modified to the end that an adequate sewer system be established in that portion of said city now comprised within said village of La Salle without unnecessary delay.

(Effective March 31, 1927.)

§ 403. Said city of Niagara Falls upon this act fully taking effect as herein provided, shall proceed to construct according to the plans adopted by said town of Niagara the bridge across Little Niagara river from Cayuga island to the main land, as said plans have been made and approved by the war department of the United States of America, and said city shall complete the construction of said bridge without unnecessary delay, and to be commenced within two years from the time this act takes effect.

(Effective March 31, 1927.)

§ 404. Upon this act fully taking effect the members of the police force of said village of La Salle shall be and become members of the police department of said city of Niagara Falls

subject to the rules and regulations applying to the bureau of police of said city.

(Effective March 31, 1927.)

§ 405. Upon this act fully taking effect as herein provided said city of Niagara Falls shall make provisions for the maintenance of the La Salle free library of said village of La Salle as a branch of the public library of the said city of Niagara Falls so that the patrons of said branch library shall be accommodated as fully as they are accommodated at the time this act shall fully take effect.

(Effective March 31, 1927.)

§ 406. Upon this act fully taking effect as herein provided all school districts in said village including that portion of said school district or districts as may lie within the town of Niagara as altered by this act shall become and be a part of the school system of said city of Niagara Falls as provided by the statutes of the state of New York and be under the jurisdiction of the board of education of said city. The school boards and officers of the said school districts in said village shall within five days after this act fully takes effect make a full and correct inventory and description of all personal and real property owned by said school district or districts of said village and file the same with the secretary of the board of education of said city together with all records, books, papers, vouchers and other documents belonging to, owned and held by said school boards of said district or districts of said village and shall account for and pay over within said period to the city treasurer of the city of Niagara Falls for the school fund in said city all moneys in the hands of said boards or officers of said school district or districts of said village which moneys shall be used by said board of education of said city for the administration of the schools of said former village of LaSalle. The terms of office of all school trustees and school officials in the school district or districts in said village shall expire at midnight on the fifth day following this act fully taking effect as herein provided, provided, however, that such expiration and termination herein provided for shall not apply to teachers, principals or superintendents engaged in teaching and active instruction in said schools and whose contracts respectively shall continue in effect by reason of the absorp-

tion of their respective school district or districts into the school system of said city as herein provided. The debts of said school districts as now constituted in said village of La Salle, including the bonded indebtedness of said school districts, owing at the time this act fully takes effect shall be and become a part of the indebtedness of said school system of said city of Niagara Falls.

(Effective March 31, 1927.)

"For definition of word 'person' as used in Chapter 530, Laws of New York, 1927, relating to annexation of La Salle, see § 14, Chapter 530 Laws New York, 1927.

For effect of unconstitutionality of Chapter 530, Laws 1927, relating to annexation of La Salle, see § 15, Chapter 530 Laws 1927."

§ 407. That portion of the city of Niagara Falls, New York, comprised within that portion contained in the village of La Salle, New York, April twenty-eighth, nineteen hundred and twenty-seven, is hereby constituted a special tax district for the purpose of administering said portion of said city comprised in said village on said date to December thirty-first, nineteen hundred and twenty-seven. Nothing in this act or local law contained shall affect any of the provisions of chapter five hundred and thirty of the laws of nineteen hundred and sixteen entitled "An act to provide a charter for the city of Niagara Falls" and as amended and superceded, or affect the preparation of the budget or assessment and levying of taxes in said city generally after January first, nineteen hundred and twenty-eight.

(Niagara Falls, Local Law No. 2, effective May 23, 1927.)

§ 408. The city manager of said city shall, immediately after June first, nineteen hundred and twenty-seven, prepare a budget showing the estimate of the various items for the administration of that portion of said city of Niagara Falls comprised within the village of La Salle, April twenty-eighth, nineteen hundred and twenty-seven, necessary to provide for the operation of the various departments of said city affecting said portion of said city and to meet any outstanding current bills or obligations existing against said village of La Salle, June second, nineteen hundred and twenty-seven, and not included in the bonded indebtedness of said village. Said budget

shall be submitted by said city manager to the city council for its action and approval not later than June twentieth, nineteen hundred and twenty-seven, and said budget as the same may be amended by said city council shall be approved by said city council not later than July fifth, nineteen hundred and twenty-seven, and upon its approval by said city council shall be deemed the budget of said city for the administration of that portion of said city theretofore comprised within said village of La Salle, New York, for the purposes aforesaid. Immediately on receipt of the said budget from the city manager as prepared by him the city council shall proceed to consider the same and shall fix a date for the hearing of any taxpayer thereon not later than June twenty-seventh, nineteen hundred and twenty-seven. Notice of said hearing shall be published once in the official paper of said city at least five days prior to said hearing and shall be posted in three public places in that portion of said city formerly comprised within said village of La Salle on the date of publication thereof in said paper. After said hearing said city council may diminish, increase or reject any item contained in said estimate or budget except such items as relate to the debt of said village of La Salle and must adopt the estimate or budget thus amended as hereinbefore provided. Said estimate or budget shall be thereupon entered at large in the minutes of the city council and published in its proceedings, and the same shall be and become the appropriation for the several departments, bureaus and offices of the city for the purpose of administering that portion of said city comprised in said former village of La Salle for the period ending December thirty-first, nineteen hundred and twenty seven. Said city council shall estimate the probable revenues other than the general city tax of said city available for the purposes named in said estimate or budget and which would have been available to said village ordinarily, and shall direct that the same be credited to such of the several funds as it deems proper. The several balances in the estimate of expenses in that portion of said city comprised in the former village of La Salle as aforesaid after such deductions shall be made shall be known as the tax budget for the administration of that portion of the said city within said former village of La Salle for the aforesaid period, and the

several amounts therein named shall be levied, assessed and laid by tax upon the real and personal property liable to taxation in the aforesaid portion of said city at such time and in such manner as is provided by law.

(Niagara Falls Local Law No. 2, 1927, effective May 23, 1927.)

§ 409. The city assessor of said city of Niagara Falls shall, upon receiving any uncompleted tax or assessment rolls from the village or school authorities of the said village of La Salle, New York, proceed to complete the same as herein provided, and said uncompleted assessment rolls shall be deemed the assessment rolls of said city for the purposes in this act stated so far as the same shall have been proceeded with by the proper authorities of said village and as the same shall be completed by said city assessor. The said city assessor shall proceed to acquaint himself with the property assessed and shall assess the same as provided in section one hundred and eighty-six of chapter five hundred and thirty of the laws of nineteen hundred and sixteen as amended by chapter five hundred and fifteen of the laws of nineteen hundred and twenty-two of said state. Said city assessor shall complete said assessment rolls on or before July first, nineteen hundred and twenty-seven, and leave the same at his office for public examination and shall forthwith give notice by posting handbills in prominent places in each of the wards of said city comprised within said territory formerly constituting said village of La Salle and publishing said notice in the official paper of said city for six successive business days. Said notice shall state that the assessment rolls are completed and left in the office of the city assessor where they may be seen and examined until July eighth, nineteen hundred and twenty-seven and that said assessor shall attend during said time at his office daily from ten A. M. to twelve M., and from two P. M. to four P. M. for the purpose of reviewing said assessments in the same manner as assessors of towns. Said city assessor shall have power from the time said uncompleted rolls shall be transmitted to him by the authorities of said former village of La Salle until the end of the time stated in said notice as aforesaid in which to change or fix the valuation of the various properties covered by and contained in said

assessment rolls. For the purpose of reviewing said assessment rolls and correcting said assessments said city assessor shall have exclusive power to correct said rolls in respect to taxes imposed under the charter of said city and the acts amendatory thereof or ordinances thereof in the same manner as the board of supervisors of the county may correct the town rolls of the town and he shall possess all the powers in relation to such assessment rolls possessed by the board of supervisors in the case of town assessment rolls of the town and county taxes. At the expiration of the time stated in said notice he shall cease to correct and review said rolls relating to both school and general city taxes and shall subscribe the same on August first, nineteen hundred and twenty-seven, and verify the same and deliver the same to the city clerk to be by said city clerk filed, including the assessment of special franchises made by the state board of tax commissioners completed, subscribed and verified by him and to be by him filed as aforesaid. During the time the said city assessor is correcting and reviewing said assessment rolls he shall have power to add or insert therein any item liable for taxation and the assessment thereof which may have been omitted therefrom upon giving at least two days personal notice thereof to the owner or agent of such property. He shall proceed in regard to said rolls as provided in section two hundred of chapter five hundred and thirty of the laws of nineteen hundred and sixteen as amended and superseded by local law number ten of the year nineteen hundred and twenty-six of said city of Niagara Falls, excepting that said general assessment roll herein provided for shall be filed as therein provided August first, nineteen hundred and twenty-seven. All other provisions of chapter five hundred and thirty of the laws of nineteen hundred and sixteen as amended and superseded shall apply to the preparation of said assessment rolls and the collection of taxes except as herein specifically otherwise provided.

(Niagara Falls Local Law No. 2, 1927, effective May 23, 1927.)

§ 410. The school board of said city shall prepare and file with the city council on or before June twentieth, nineteen hundred and twenty-seven, its budget containing the estimate

of the items for the administration of the schools comprised within the said former village of La Salle at the time it became annexed to said city of Niagara Falls for the fiscal year beginning August first, nineteen hundred and twenty-seven, ending July thirty-first, nineteen hundred and twenty-eight, and the council shall approve the same not later than July fifth, nineteen hundred and twenty-seven, otherwise the same shall become effective automatically without said confirmation. Immediately on receipt of the said estimate or budget of said board of education as aforesaid, said city council shall proceed to consider the same and upon approval shall immediately file the same with the city clerk. Said city council shall include the amount so certified and approved in the school tax and assessment roll and such amount shall be collected by the city treasurer and credited to the school fund.

(Niagara Falls Local Law No. 2, 1927, effective May 23, 1927.)

ADDENDA

Local Law No. 1, 1924. See Local Law 1925

Method of Procedure

Section 1. Whenever a local law is proposed at a session of the city council of the city of Niagara Falls, state of New York, a public hearing thereon shall be held at the next session of the city council, at the usual place of meeting in said city, not less than five days after the introduction of said proposed law. A copy of said proposed law shall be printed in the official paper of said city, together with a notice of such hearing by the city clerk, at least five days before said hearing, which notice shall fix the time and place of said hearing upon said proposed law, for all persons interested.

§ 2. This local law shall take effect immediately.

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